



**Lake District  
National Park**

**3**

**Report from the Head of Development Management to the  
Development Control Committee**

Application number:	<b>7/2024/5703</b>
Application type:	Full Planning application
Applicant:	Mrs J McGowan, The Lakes Ltd
Location:	Esk Villa, Tilberthwaite Avenue, Coniston, Cumbria, LA21 8ED
Grid reference:	330395 497612
Proposal:	Change of Use of part ground floor from cafe to ancillary residential accommodation plus ancillary works.
Report prepared by:	Emma Kearsley, Planner
Report agreed by:	Neil Henderson, Planning Manager
Recommendation:	APPROVE with conditions

**1 About this report**

- 1.1 The case planner has prepared this report, assessment and recommendation taking into account our policies (known as the Development Plan), written representations we have received, and any other material considerations.
- 1.2 Material considerations are things that are relevant to our decision making and which we are able to take into account – for example site specific factors, or Government planning policy (the National Planning Policy Framework) and Government planning guidance (the National Planning Practice Guidance).
- 1.3 The Development Control Committee will determine the application at its meeting having regard to the provisions of the Development Plan, representations we have received, and all other material considerations,

following a verbal and visual summary of the application by the case planner and, where applicable, after hearing any verbal representations made in accordance with our Policy for Public Speaking at Meetings.

- 1.4 Most applications are decided under powers delegated to the Head of Development Management. A small number of significant or more contentious applications are considered by our Development Control Committee as set out in our Scheme of Delegation.

## 2 **Background and proposals**

- 2.1 The property is an end of terrace, three-storey building located on Tilberthwaite Avenue with vehicular access at the rear from Hawkshead Old Road in Coniston.
- 2.2 Planning permission is sought for the change of use of part of the ground floor from café to living accommodation to be associated with existing residential accommodation on the first and second floors of the building. The residential accommodation is proposed for use by staff employed at a public house (applicant's business) in Hawkshead.
- 2.3 The proposal includes dividing the ground floor into two uses; to retain the commercial kitchen, which supports the applicant's business, and change the front half of the property to a kitchen and living room to serve the residential accommodation above.
- 2.4 The proposal includes external alterations to the building, including,
  - Insertion of uPVC sash window frames in existing openings
  - Removal of outbuilding
  - Infill extension to the northern elevation in lieu of an existing covered area
  - Blocking up of first-floor window on eastern elevation
- 2.5 The proposals also include alterations to the existing parking arrangement (additional space in lieu of outbuilding) and northern and western boundaries of the property to accommodate access to the additional car parking space and visibility to Hawkshead Old Road when exiting the spaces. The northern and western boundary walls would be demolished and a 1.8m high timber fence would be erected on the western boundary with Hollin House with a reduced height of 1m for a length of 1.8 metres where it joins Hawkshead Old Road. It is also proposed that the northern boundary wall of Hollin House would be reduced to 1m for a length of 2m where it joins the boundary with Esk Villa.
- 2.6 The site is in Flood Risk Zone 3.

## 3 **Representations**

- 3.1 Coniston Parish Council objects to the application on the following grounds:
  - Existing facilities in the village need to be protected.

- In the past two and a half years, Coniston has lost five café/restaurants creating a serious under capacity the village to provide food and drink to visitors.
  - The Coniston Neighbourhood Plan identifies Cafes and Restaurants as being important to the village. This application not only removes an establishment that has been used as a café/restaurant for many decades but converts it into dormitory accommodation for a business over four miles away.
  - The existing residential accommodation has not been occupied recently. The occupation of the whole property will result in highways and parking issues on Hawkshead Old Road. The provision of two on-site parking spaces is insufficient. Any relocation of the lighting column and removal of a traditional dry-stone wall to accommodate parking would remove a part of the village's heritage.
  - The property has an attractive double fronted aspect and outside seating area facing Tilberthwaite Avenue ideal for a café/restaurant.
  - At no point since its purchase at auction has the property been made available to the market in a genuine attempt for it to be operated as its intended use i.e. as a café/restaurant.
  - The application does not meet the requirements of local plan policy 02 (Spatial strategy).
- 3.2 The Local Highway Authority has no objections to the proposal subject to a condition requiring the existing fence/wall boundary adjacent to the highway is reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway, before the development commences, in the interests of highway safety.

#### **4 Development plan policies and other relevant guidance**

- 4.1 The relevant Development Plan comprises:
- The Lake District National Park Local Plan 2020-2035
- 4.2 The following Lake District National Park Local Plan policies are relevant to this application:
- Policy 01: National and international significance of the Lake District
  - Policy 02: Spatial strategy
  - Policy 03: Development and flooding
  - Policy 05: Protecting the spectacular landscape
  - Policy 06: Design and development
  - Policy 07: Historic environment
  - Policy 28: Mineral safeguarding
- Design Code Supplementary Planning Document

#### Coniston Neighbourhood Development Plan

- CNP1 – Our Community
- CNP2 – Businesses
- CNP3 – Housing

- 4.3 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It is a material consideration in the determination of planning applications.

## 5 Main issues and assessment

- 5.1 The main issues in this assessment are:

- Principle of development
- Impact on the character and appearance of the area
- Impact on the amenity of neighbours
- Impact on highways safety
- Impact on flood risk

### Principle of development

- 5.2 The proposals would see the loss of an existing café use and the provision of staff accommodation. This essentially relates to the creation of a house in multiple occupation (HMO), a type of permanent home for policy purposes.
- 5.3 Local Plan Policy 02 (Spatial strategy) states that rural service centres such as Coniston will be the focus for housing, employment and retail development.
- 5.4 Local Plan Policy 15 (Housing) sets out how new homes will be provided to meet community need. It states (amongst other things) that we will increase the supply of homes to meet local community need by supporting new permanent homes that:
- contribute towards helping communities remain vibrant and resilient; and
  - achieve a better balance in the housing market; and
  - are secured in perpetuity for permanent occupation with eligibility restricted to a geography that is tailored to local circumstances.
- 5.5 Policy CNP1 of the Coniston Neighbourhood Plan supports development of an appropriate scale that meets the needs of the community, particularly where it enhances the role of Coniston as a rural service centre. Policy CNP2 indicates that proposals will be supported that will enable the expansion and retention of existing local businesses, whilst Policy CNP3 states that housing development will be permitted that provides housing that meets local need and local affordable need, alongside custom or self-build housing for permanent occupation.
- 5.6 I do not consider that the loss of a small café would be so harmful to the viability and vitality of Coniston to justify refusal, given the range of alternative venues available. Whilst the Parish Council argue the point that many cafes have closed down recently there is provision within the rural service centre.
- 5.7 I am satisfied that the proposals are acceptable in principle and meet the requirements of local plan policies 02 and 15 and the NPPF.

### Impact on the character and appearance of the area

- 5.8 Esk Villa comprises a traditional Victorian building; the end terrace of a row of four properties. The character of the building and the opposite end terrace have been eroded over time by alterations, including the insertion of single pane window frames. The middle terraces comprise traditional style sash window frames. The front of the property is visible from public view along Tilberthwaite Avenue and the rear of the property is visible from public view along Hawkshead Old Road.
- 5.9 The proposed window frames would be sash uPVC. Whilst the proposed windows frames would be plastic and not a traditional timber finish, I consider that the proposed frames would reflect the character of the windows on the middle two terraces and would be an improvement to the current window styles.
- 5.10 The outbuilding to be removed is visible from public view from Hawkshead Old Road but is a flat roofed structure with rendered walls. The utilitarian building does not therefore contribute to the appealing traditional character and appearance of the area. I therefore consider that the removal of the outbuilding is acceptable.
- 5.11 The lean-to covering over the yard area to the eastern side of the northern (rear) elevation is proposed to be replaced with an extension which would infill the space between the eastern elevation and the boundary with Hollin House. The walls would be finished with roughcast render. The flat roof would have a fiberglass covering leading to a monopitch section covered with slate to the boundary with the adjoining dwelling. Whilst flat roofs are not a traditional roof form, I consider that the small extent over the infill extension is acceptable.
- 5.12 I am satisfied that the proposed blocking up of the first-floor window on the eastern elevation is acceptable.
- 5.13 Overall I am satisfied that the proposed development is acceptable in terms of its impact on the character and appearance of the area and that it satisfies the requirements of Local Plan Policies 01, 02, 05, 06, the Design Code SPD and the NPPF.

Impact on the amenity of neighbours

- 5.14 Esk Villa is surrounded by residential properties. The nearest are the adjoining dwellings, Hollin House to the east and no.3 to the west.
- 5.15 I recognise that an HMO may accommodate shift workers, which may involve early starts or late finishes, meaning they leave their home early or return to their home late. It is the case however that shift workers can occupy any home, and their occupation does not necessarily result in disturbance to nearby residents. Although the number of residents may make this more noticeable than in other housing developments where a resident works shifts, I do not believe that it is inevitable that disturbance would be any greater than other forms of residential occupation within this Rural Service Centre location.

- 5.16 There are no additional windows proposed, and the proposed infill extension is single-storey and modest in size. As such the proposals would not cause any additional overlooking, or be overbearing to the neighbouring dwellings.
- 5.17 The development is acceptable in terms of its impact on amenity and satisfies the requirements of Local Plan Policy 06, the Design Code SPD and the NPPF.

Impact on highway safety

- 5.18 The existing building has five bedrooms above the café space. There is one car parking space to the rear of the existing property accessed from Hawkshead Old Road.
- 5.19 The proposal would reduce the number of bedrooms to four. Appendix 1 of The Cumbria Development Design Guide states that four-bedroom dwellings should have 2 car parking spaces per unit. An additional parking space would be created adjacent to the existing space in lieu of the existing outbuilding, proposed to be demolished. The 2 car parking spaces indicated would be acceptable based on the guidelines.
- 5.20 The Local Highway Authority objected on the original submission on the grounds of insufficient information to demonstrate that vehicles can exit the proposed parking spaces onto Hawkshead Old Road safely. The applicant provided amended plans to indicate that visibility splays can be achieved to the east by reducing the height of the eastern boundary wall with Hollin House to 1m and reducing the northern boundary wall to Hollin House to 1m. The Local Highway Authority removed their objection based on the amended plans submitted.
- 5.21 The staff would need to travel to Hawkhead to get to work at the applicant's pub business. The applicant states there is public transport available as the Stagecoach 505 bus from Coniston to Hawkshead departs from the road opposite Esk Villa and goes directly to Hawkshead village. I appreciate that the bus service may not cater for early/late shifts though and residents may be dependent on private car journeys. Whilst the total of number of cars owned by residents could be more than 2, I consider that there are other places, including nearby unrestricted roads and public car parks where cars could be parked within Coniston in this instance. I consider that there is unlikely to be any material impact on the surrounding roads.
- 5.22 I am satisfied that the development is not likely to have a significant impact on highways safety and satisfies the requirements of Local Plan Policy 06 and the NPPF.

Impact on flood risk

- 5.23 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such

areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

- 5.24 Local Plan Policy 03 states that we want to increase the resilience of the Lake District to all types of flood event, including river, surface water and coastal flooding and that we will achieve this by supporting development proposals in accordance with the approach to managing flood risk in the NPPF and associated planning practice guidance.
- 5.25 The site is in Coniston, close to Church Beck, a watercourse, which runs through the village. The application site is in Flood Zone 3. Annex 3 of the NPPF defines the use of buildings as dwellinghouses as 'more vulnerable'.
- 5.26 Paragraph 176 of the National Planning Policy Framework instructs that sequential test and exception tests are not necessary for change of use as set out in National Planning Policy Framework footnote 62.
- 5.27 A Flood Risk Assessment (FRA) accompanied the application. It explains that floor levels will remain the same and that no changes to the site are proposed except the removal of an outbuilding. No bedrooms are proposed on the ground floor. In the event of a flood the upper floors can be used as a refuge.
- 5.28 The applicant is aware of the flood risk and will have a flood risk plan in place, including signing up to the flood alert service.
- 5.29 A considerable area of Coniston is at risk of flooding. It would be contrary to policy to erect a new building to accommodate a more vulnerable use in an area of risk of flooding but in this instance where the accommodation arises out of a change of use of a building which is already partly used for residential accommodation I consider that the proposal would not result in an increased risk of flooding elsewhere and would not put future residents at unacceptable risk.
- 5.30 The proposal satisfies Local Plan Policy 03 and the NPPF.

#### Mineral safeguarding

- 5.31 Policy 28 aims to safeguard minerals of economic importance from being sterilised by non-mineral development. The site is located within an area safeguarded by Policy 28. Policy 28 states planning permission will be granted for non-mineral development within Minerals Safeguarding Areas where specific conditions exist. I am satisfied that, because of the site-specific circumstances (change of use and alterations within the curtilage of an existing building), the proposal would not affect the overall value of the mineral resource present, and therefore meets the requirements of Local Plan Policy 28 and the NPPF.

## **6 Conclusion**

- 6.1 Having regard to the provisions of the development plan, in particular Lake District National Park Local Plan Policies 01, 02, 03, 05, 06, 07, 28, the

Design Code SPD, Coniston Neighbourhood Development Plan, and other material considerations (including the provisions of the NPPF), the development is considered to be acceptable, subject to the conditions recommended.

**RECOMMENDATION: APPROVE with conditions**

**Conditions/Reasons**

- 1 The development hereby permitted shall be commenced before the expiration of THREE years from the date hereof.

REASON: Imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act, 1990.

- 2 The development hereby permitted shall not be carried out otherwise than in conformity with the following submitted plans and details:
  - Drawing no's 5708 (PL) 04 E; 5708 (PL) 05 C; 5708 (PL) 06 D; and 5708 (PL) 07
  - Planning Statement including FRA

REASON: For the avoidance of doubt.

- 3 The house in multiple occupation (HMO) hereby permitted shall not be occupied otherwise than by a Person with a Local Connection as his or her Only or Principal Home, or the widow or widower of such a person, and any dependents of such a person living with him or her.

The Occupant will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request so to do) such information as the Authority may reasonably require in order to determine whether this condition is being observed.

In this condition the following definitions apply:

'Person with a Local Connection' means an individual who immediately prior to occupation of the dwelling satisfies one of the following conditions:

- (1) The person is employed, is about to be employed, or was last employed in the Locality defined, for a minimum of 16 hours per week; or
- (2) The person needs to live in the Locality defined because they need substantial care from a relative who lives in the Locality defined, or because they need to provide substantial care to a relative who lives in the Locality defined. Substantial care means that identified as required by a medical doctor or relevant statutory support agency; or
- (3) The person has been continuously resident in the locality defined for at least three years immediately prior to:
  - a) Needing another dwelling resulting from changes to their household, (including circumstances such as getting married/divorced, having children,

or downsizing)

b) Undertaking full-time post-secondary education or skills training and is returning to the locality defined within 12 months of its completion, or

c) being admitted to hospital, residential care or sentenced to prison, and are returning to the locality defined within 12 months of their discharge/release, or

(4) The person is a former resident who lived in the Locality defined for at least three years and then lived outside the Locality defined for social and/or economic reasons and is returning to live in the Locality defined within three years of the date of their departure, or

(5) The person is a person who –

a) Is serving in the regular forces or who has served in the regular forces within five years prior to occupation;

b) Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where -

i. The spouse or civil partner has served in the regular forces; and

ii. Their death was attributable (wholly or partly) to that service; or

c) Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service

'Locality' shall mean the administrative areas of the Parishes of: Broughton East; Cartmel Fell; Claife; Colton; Coniston; Crook; Crosthwaite and Lyth; Dunnerdale with Seathwaite; Haverthwaite; Hawkshead; Hugill; Kentmere; Lakes; Lindale and Newton in Cartmel; Longsleddale; Nether Staveley; Over Staveley; Satterthwaite; Skelwith; Staveley in Cartmel; Torver; Underbarrow and Bradleyfield; Windermere; Witherslack; Meathop and Ulpha; and those parts of the Parishes of: Blawith & Subberthwaite; Broughton West; Egton with Newland; Grayrigg; Helsington; Kirkby Ireleth; Levens; Lowick; Selside and Fawcett Forest; Strickland Ketel; Strickland Roger; and Whinfell which lie within the administrative area of the Lake District National Park.

An 'Only or Principal Home' is a dwellinghouse which is occupied continuously for a minimum period of six months in every twelve month period. For the avoidance of doubt the dwelling shall not be occupied as a second home or for holiday letting accommodation.

The obligations contained in this condition shall not be binding or enforceable against any mortgagee or any receiver appointed by such a mortgagee, or any person deriving title through such a mortgagee or receiver provided always that a successor in title of such a person will be bound by the obligations contained in this condition.

REASON: To ensure that the resulting accommodation is occupied by persons with a defined local need in order to comply with Lake District National Park Local Plan Policy 15 and the accompanying Housing Supplementary Planning Document. The provisions relating to armed

forces personnel are in accordance with the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012.

- 4 Prior to the first occupation of the House in Multiple Occupation (HMO) hereby permitted, details of a flood plan and flood resilience measures, in accordance with the principles set out in the Flood Risk Assessment which accompanied the application, should be submitted to the Local Planning Authority and approved in writing. The approved plan and measures shall be implemented and retained thereafter.

REASON: To increase the flood resilience of the development permitted and to reduce the risks to inhabitants of the HMO should flooding occur in accordance with Policy 03 of the Lake District National Park Local Plan 2020-2035.

- 5 The pitched roof of the extension hereby permitted shall be covered and maintained in slate to match that used in the construction of the existing building. Such slates shall be laid in diminishing courses from eaves to ridge.

REASON: To ensure a satisfactory standard of appearance of the development by the use of traditional materials in accordance with Policies 01 and 06 of the Lake District National Park Local Plan 2020-2035.

- 6 Prior to first use of the development hereby permitted, the eastern boundary fence shall be erected and the northern boundary wall of Hollin House shall be reduced to 1m as shown on drawing no. 5708 (PL) 04 E and 5708 (PL) 06 D and the 1m heights shall not be raised to a height exceeding 1.05m thereafter.

REASON: In the interest of highway safety.

### **NPPF decision notice requirements**

Town and Country Planning (Development Management Procedure) (England) Order 2015 Article 35(2) statement.

The Local Planning Authority have worked with the applicant in a positive and proactive manner by seeking solutions to problems arising in relation to dealing with the application by facilitating discussions between the applicant and the Local Highway Authority and by accepting amended plans to overcome an objection from the Local Highway Authority.

### Informative

The Local Highway Authority remind the applicant that any works within or near the Highway must be authorised by the Council and no works shall be permitted or carried out on any part of the Highway including verges, until they are in receipt of an appropriate permit from the LHA Streetworks team. Please see the following link for more information:

<https://www.westmorlandandfurness.gov.uk/parking-streets-and-transport/streets-roads-and-pavements/street-licences-and-permits/street-permit-and-licence-fees-and-charges>.

The Local Highway Authority remind the applicant that the highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

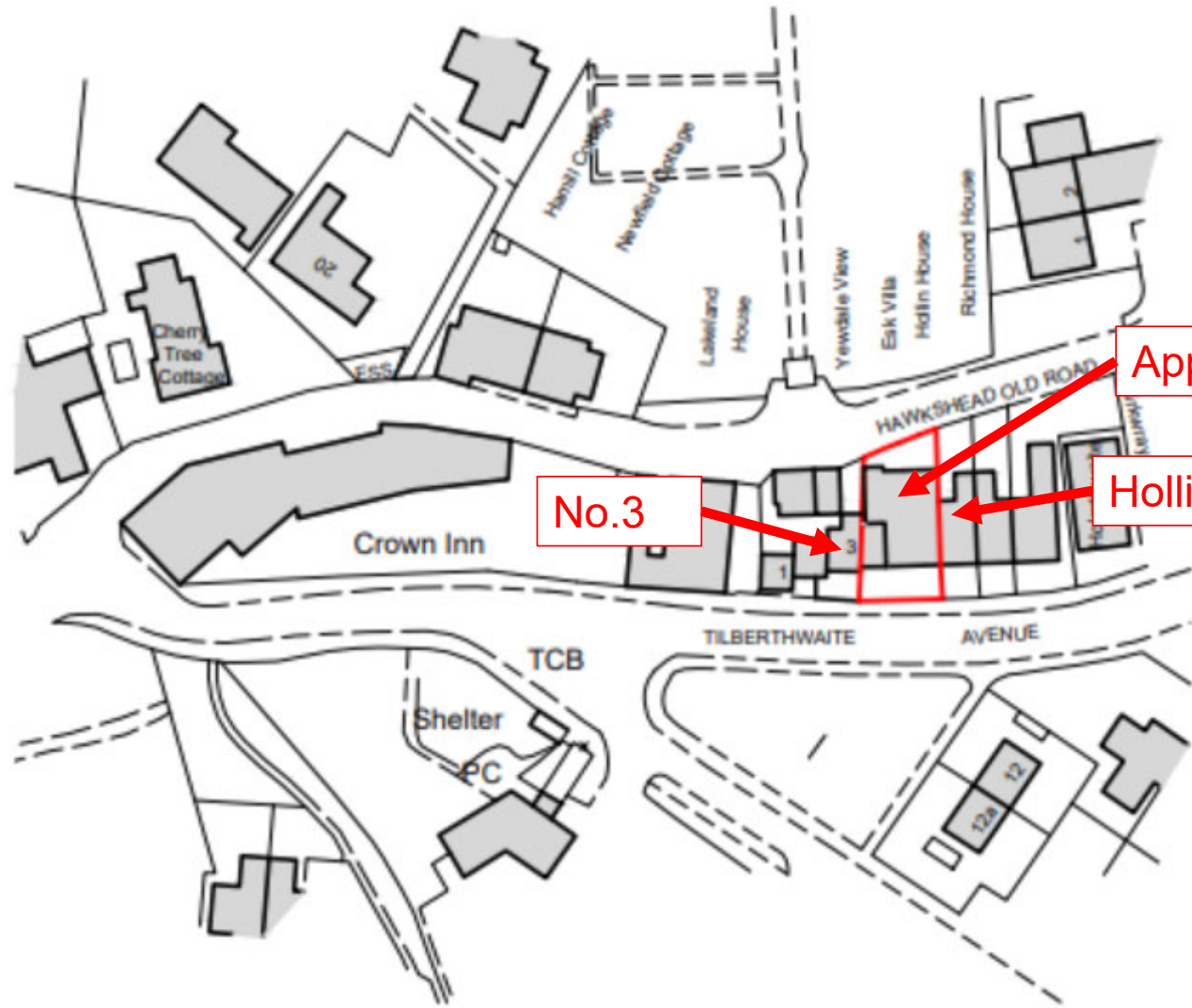
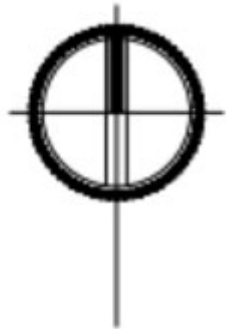
### **Background papers**

Background papers are available for inspection on the planning application file unless otherwise specified on that file as confidential by reasons of financial/personal circumstances in accordance with the Local Government (Access to Information) Act 1985.

7/2024/5703

Esk Villa, Tilberthwaite Avenue, Coniston

Change of use of part of the ground floor from café to ancillary residential accommodation plus ancillary works



Application Site

No.3

Hollin House











# Proposed floor plans

