

Appeal Decision

Site visit made on 13 September 2016

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 28 October 2016

Appeal Ref: APP/Q9495/C/16/3150655

33-37 Main Road, Windermere LA23 1DX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr P A Patelski against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 20 April 2016.
 - The breach of planning control as alleged in the notice is the installation of four air conditioning units, a satellite dish and associated cabling and wiring.
 - The requirements of the notice are permanently remove the four air conditioning units, satellite dish and associated cabling and wiring from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is varied by the deletion of 'three months' in section 6 of the notice and the substitution instead of 'six months'. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

Reasons

The ground (a) appeal

2. The main issue is the effect of the four air conditioning units, the satellite dish and associated cabling and wiring on the character and appearance of the Windermere Conservation Area, within which the appeal property is situated.

3. The end-terraced appeal property has front and rear elevations to Crescent Road and Main Road respectively. The four air conditioning units, the satellite dish and associated cabling and wiring are on the Crescent Road elevation of the property above the fascia over a ground floor retail unit. The four air conditioning units are to the side and in front of first floor windows and the satellite dish is located just under the eaves. The property is a typical Lakeland stone building with, above the fascia, sash windows at both upper floor levels and steep pitched slate gable roofs. Adjoining properties have similar characteristics.

4. The four air conditioning units and the satellite dish, both individually and collectively, are incongruous and prominent features on this typical traditional Lakeland property. They are modern industrial type features, the air conditioning units in particular and despite the camouflage that has been applied since the enforcement notice was issued, that add clutter to an otherwise well preserved elevation in a prominent location on a main thoroughfare in the Conservation Area.

The cabling and wiring that hang between the units and the dish serve to emphasise the significant harm that has been caused by the unauthorised development to the character and appearance of the Windermere Conservation Area contrary to policies CS10 and CS27 of the Lake District National Park Core Strategy (Local Plan Part One) 2010.

5. The unauthorised development causes harm to a designated heritage asset though the harm is less than substantial. Paragraph 134 of the National Planning Policy Framework states that, in these circumstances, the harm should be weighed against the public benefits of the development. The appeal property is privately owned and there are no public benefits to be weighed against the harm caused.

6. The need for air conditioning in the restaurant they serve is recognised but the provision of air conditioning units is not necessarily dependant on the attachment of units to the building in a prominent position. In addition, telecommunication reception is not dependant on the attachment of a satellite dish to the outside of the building.

The ground (f) appeal

7. The only remedy to the breach of planning control is the complete removal of the four air conditioning units, the satellite dish, and the cabling and wiring. No lesser steps would remedy the breach and the ground (f) appeal thus fails.

The ground (g) appeal

8. Taking into account the need for air conditioning in the ground floor restaurant in the property three months is insufficient time to negotiate alternative provision and for the necessary consents to be arranged. Six months, as requested, strikes a balance between this need and the need to remedy the breach of planning control as soon as reasonably possible. The ground (g) appeal thus succeeds and the enforcement notice has been varied accordingly.

John Braithwaite

Inspector