

## Appeal Decisions

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: 2 November 2016**

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### **Appeal Ref: APP/Q9495/W/16/3143142**

#### **Broad Oaks, Bridge Lane, Troutbeck Bridge, Ambleside LA23 1LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Tracey Robinson against the decision of Lake District National Park Authority (LDNPA).
  - The application Ref 7/2015/5501, dated 18 August 2015, was refused by notice dated 16 October 2015.
  - The development proposed is creation of hardstanding within hotel grounds for disabled access (retrospective).
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### **Appeal Ref: APP/Q9495/C/16/3145820**

#### **Broad Oaks, Bridge Lane, Troutbeck Bridge, Ambleside LA23 1LA**

- 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 Ms Tracey Robinson against an enforcement notice issued by Lake District National Park Authority (LDNPA).
  - The enforcement notice was issued on 4 February 2016.
  - The breach of planning control as alleged in the notice is engineering operations to form a hardstanding and excavations to form a path.
  - The requirements of the notice are 1) Permanently remove the hardstanding and path from the land by carrying out the following: (i) Remove the fence which encloses the hardstanding; (ii) Remove the aggregate stone chippings that have been used to surface the hardstanding and path; (iii) Remove any imported material and re-grade the hardstanding so that it matches the levels and slope of the adjoining field, or to levels to match that shown in the Google Streetview images attached as Appendix 1 and cover with soil and spread grass seed; (iv) Infill the excavations which form the path with either the excavated material and/or topsoil to levels that match the levels of the undisturbed land adjacent to the excavations and spread grass seed.
  - The period for compliance with the requirements is three months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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### **Decision**

1. The appeals are dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Reasons**

The ground (a) enforcement appeal and the planning appeal

2. The main issues are the effect of the development on: first, highway safety; and second, the character and appearance of the area.
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The first issue – highway safety

3. The appeal site is a mainly grassed area on the east side of Bridge Lane, a mainly single track country road. The site is part of the grounds of Broad Oaks, a country house hotel on the same side of Bridge Lane to the south. Access into the site is through a gate in a frontage stone boundary wall, which extends along the frontage of the site to the lane. Part of the site has been levelled and hard surfaced to create a parking area and the works have been carried out to provide parking for, and to facilitate the use of the land by, disabled guests of Broad Oaks for dog walking purposes.

4. The frontage boundary wall is slightly curved outwards and visibility for drivers of vehicles exiting the site is seriously sub-standard. It is necessary to encroach onto the highway to gain visibility in both directions, particularly so for visibility to the north. Vehicles approaching from that direction are heading downhill around a slight bend in the road and there is the distinct potential for traffic conflict with a vehicle exiting the site, particularly if a vehicle is approaching from the south at the same time. Instances of this occurring might be rare but the potential for traffic conflict exists nevertheless.

5. The Appellant has proposed improvements to visibility either side of the access and the Highway Authority has agreed that splays of 2m x 33m to the north and 2m x 39 metres to the south would be acceptable. These would be achieved, as shown on a drawing submitted with the appeal, by reducing the height of the boundary wall to 600mm and introducing railings on top of the lower sections of wall. The drawing indicates that each splay terminates at a point one metre into the roadway whereas splays should terminate at the edge of the roadway. Applying this principle to the visibility splay to the north would result in the splay extending across the neighbouring field.

6. The accepted visibility splay to the north could not be achieved without reducing the height of the boundary wall along part of the frontage of the neighbouring field, which would require the agreement of the field's owner. Furthermore, railings along the top of a wall reduced in height, seen obliquely from the access, would obscure the visibility that reducing the height of the wall was seeking to achieve. The works proposed to the frontage boundary wall could not be achieved without the agreement of a third party and would not achieve the desired visibility, particularly to the north and in the direction which poses the greatest threat to adequate visibility and thus to highway safety.

7. Visibility at the access into the site is seriously substandard and could not realistically be improved. Whilst vehicular activity associated with the use of the site is likely to be low it will be greater than that associated with agricultural use of the land. Any vehicular activity in excess of that associated with the lawful use of the land, given substandard visibility for drivers of vehicles exiting the site, increases the risk of traffic conflict on Bridge Lane and seriously undermines highway safety on this single track country road.

The second issue – character and appearance of the area

8. The works to create the hard surfaced area are only glimpsed from Bridge Lane and there are no other public vantage points from which the site can be seen. The engineering operations have not altered original levels to any significant degree and works within the site, given also that a condition could be imposed to require the planting of landscaping, have not adversely affected the character and

appearance of the area to any significant degree. However, the frontage boundary wall is likely to be an original feature of the area when it was first sub-divided into parcels for agricultural purposes. It is a well-established feature that is typical of the countryside in the National Park. Any works to alter significant sections of the wall would be necessary to improve visibility for highway safety reasons but would be seriously damaging to the character and appearance of the area. Topping lowered sections of wall with railings, furthermore, would introduce incongruous and visually intrusive features that would cause further harm.

9. Works to alter the frontage boundary wall have been proposed for highway safety reasons and, even though they would not achieve the improvements necessary, they must be regarded to be required for the purposes of this issue. The proposed works to the frontage boundary wall would have a serious adverse effect on the character and appearance of the area and the development of the appeal land thus conflicts with, in particular, policy CS25 of the Lake District National Park Core Strategy.

Other matters

10. The Equality Act 2010 generally seeks to promote equality between able bodied and less able bodied persons and places a duty on public sector authorities, such as the LDNPA and The Planning Inspectorate, to address inequality when exercising their public duty responsibilities. The development of the land does provide a facility where disabled guests of Broad Oaks may walk their dogs in a location close to the hotel. But the facility is at the very north end of land associated with the hotel and it has not been explained why a facility could not be provided in close proximity to the hotel, thus removing the need to drive the short distance to the site, or why other arrangements could not be put in place to provide exercise for the dogs of disabled guests. Furthermore, the provisions of The Equality Act 2010 do not outweigh those of the Town and Country Planning Act 1990 and judgement must be exercised in reaching an overall decision.

Conclusion

11. The proposed improvements to visibility at the access into the appeal land could not be achieved and the development, and thus use, of the land seriously undermines highway safety. Improvements to visibility at the access would be required for the development to be acceptable but such improvements would have a significant adverse effect on the character and appearance of the area, and there are no planning conditions that could be imposed to make the development acceptable in planning terms. In these circumstances planning permission must be withheld and the ground (a) enforcement appeal and the planning appeal thus fail.

The ground (g) appeal

12. Breaches of planning control should be remedied as soon as is reasonably possible. The Appellant has not substantiated her ground (g) appeal and has not suggested an alternative compliance period. Three months is an adequate period within which to carry out the works required by the enforcement notice. The ground (g) appeal thus fails.

*John Braithwaite*

Inspector