



Appeal Decision

Site visit made on 30 September 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2019

Appeal Ref: APP/Q9495/W/19/3233544

Rosthwaite, New Road, Windermere LA23 2LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Keith Farrell against the decision of Lake District National Park Authority.
 - The application Ref 7/2018/5609, dated 2 October 2018, was refused by notice dated 21 January 2019.
 - The development proposed is demolition of existing bungalow, barn and outbuildings and the erection of new-build hotel with restaurant.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was originally submitted for outline planning permission with all matters reserved.
3. However, e-mail correspondence between the appellant and the Authority indicates that plans submitted with the application were not marked as indicative. The Authority has therefore considered these as part of the development in respect of which the application was made and has not reserved these matters by condition for subsequent approval.
4. Moreover, the Authority refers to Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO) which enables a local planning authority to request further details in relation to reserved matters. In correspondence, the Authority has clearly stated that the submitted plans show matters of appearance, access, layout and scale and it has determined the application on that basis. It also indicates that details on these matters would have been requested in any case due to the sensitivities of the site.
5. In effect, the Authority has exercised its powers under Article 5(2) of the DMPO in respect of the submission of further details and it has determined the application on that basis, with the only reserved matter being landscaping. Therefore, I have proceeded to consider this appeal on that basis.
6. I note that the appellant offered to amend the plans to show that they were 'for illustrative purposes only'. However, this does not lead me to a different

conclusion in respect of the appropriateness of providing these details or the Authority's powers in relation to this.

7. Subsequent to the appeal being submitted, the Government has published its National Design Guide and updated the Planning Practice Guidance (PPG) with regard to matters of design. Both main parties were given the opportunity to comment on any relevant implications for the appeal and I have had regard to the Guide and the PPG in reaching my decision.

Main Issues

8. The main issues in this appeal are:

- The effect of the proposal on the character and appearance of the area, with due regard to the Windermere Conservation Area;
- Highway safety, with particular regard to parking provision;
- Flood risk and drainage; and
- The effect of the proposal on protected species.

Reasons

Character and Appearance

9. The appeal site is located on one of the main routes leading from Windermere town centre. There are a mixture of building types and layouts in the area, but the streetscape in the vicinity of the appeal site on this side of the road is characterised by large buildings in generous plots, which are in a variety of uses including residential, leisure and hotels. There is a small commercial area to the rear of the site, though this does not establish a prevailing character for the area.
10. The site is adjacent to the Windermere Conservation Area (CA). The special interest of the CA derives from a number of features as set out in the CA Appraisal and Management Plan, including its development following the opening of the railway; period detailing on buildings including decorative bargeboards, bay windows, dormers, oriels, finials and ridge tiles; trees that enhance the setting of historic buildings and soften the street scene; and the palette of local building materials including the prevalent use of stone.
11. The appeal site contains a bungalow, barn and associated outbuildings. Whilst the buildings are not unattractive, they are of an understated modern appearance and do not make a positive contribution to the streetscape. That said, the low stone wall and trees to the front of the site are attractive features which are of benefit to the character and appearance of the area. In that regard they reflect features of interest within the adjacent CA and make a positive contribution to its setting and the wider streetscape.
12. Due to the nature of the site and the wider area, I consider that the site is capable of containing a development of a larger scale and massing than the buildings currently on the site. However, such a development would need to be sensitively designed to reflect the prevailing character of the area and the setting of the CA. Unfortunately, the proposed building would not achieve this, as the proposal extending over four floors (including an attic floor) would be viewed as an overdominant development of unwarranted scale. The linear roof

line would add to this obtrusive appearance and the design of the proposal would result in a bulky and slab-sided building of minimal architectural quality. The limited detailing including gable roofs, dormers, window design and materials would do little to mitigate the harm arising from the scale and form of the building.

13. The building would be located in very close proximity to the boundary on two sides of the site and relatively close to the New Road frontage, which would give the development a constrained and unbalanced appearance. Whilst the building would be set back from the boundary of the CA, the space would largely contain the car park and circulation area. This would lead to a stark and car-dominated extent of hard surfacing between the building and the CA which would be readily apparent from the public realm. Due to the extent of built development there would be little opportunity to mitigate this harm through landscaping. The footprint of the building may also be detrimental to the health of the mature trees to the front of the site and I note that the trees are not indicated on the site plan.
14. I conclude that the proposal would, as a result of its form, scale and siting, lead to significant harm to the character and appearance of the area. The proposal would also harm the setting of the CA and, whilst that harm would be less than substantial, I attach great weight to the conservation of this designated heritage asset in accordance with the National Planning Policy Framework (the Framework).
15. The proposal would therefore conflict with policies CS01, CS02, CS03, CS10 CS11, CS24 and CS25 of the Core Strategy¹ which together seek to ensure that tourism development is of a design which conserves and enhances the special qualities of the built environment and landscape of the National Park; is of a scale and nature appropriate to the character of the location; and relates well to the form of the settlement; amongst other things. The proposal would also conflict with the Framework with regards to achieving well-designed places as well as conserving and enhancing the historic environment of National Parks.
16. The proposal would also be contrary to the advice of the Landscape Character Assessment and Guidelines Supplementary Planning Document 2008 with regards to the sensitivity of the Park's main settlements to new development which does not reflect local vernacular character.

Highway Safety

17. The Authority states that a hotel of this scale would require around 60 parking spaces based on the County Council's Design Guide. The proposal would provide for 17 spaces which would fall far short of the number indicated by the Design Guide.
18. The appellant emphasises that the proposal is within a short walk of the centre of Windermere and the railway station, with good access to rail and bus services. I acknowledge that the appeal site has good access to public transport, and it may be that this could justify a level of parking provision below that given in the Design Guide.
19. However, there is no substantive evidence to justify the scale of the shortfall. Whilst the appellant claims that the reduced car parking requirements could

¹ Lake District National Park Core Strategy including Proposals Map 2010

- encourage sustainable methods of transport, there is no certainty that guests and staff of the hotel would use these even if they were encouraged to do so. Whilst there are also public car parks within a short walk of the site, I am not persuaded that these would be used by guests in preference to on-street parking on New Road or in the surrounding area for reasons of convenience and cost. Furthermore, the Authority also refers to limited parking spaces available in the public car parks and the appellant has provided no evidence to demonstrate that these would be readily available to those accessing the proposal at times of peak demand.
20. I saw that New Road was well trafficked with a number of entrance/exit points and also has marked cycle lanes. In my view the proposal would increase parking demand on the unrestricted sections of New Road, with harmful effects on the visibility for drivers using the various exit points and leading to conflict with cyclists using the cycle lanes. On-street parking in the surrounding residential and commercial areas may also be likely to increase conflict between parked vehicles and other highway users to the detriment of road safety.
21. The appellant refers to the potential for car sharing between guests of the hotel and typical occupancy rates. However, there is no substantive evidence in respect of the efficacy of these considerations, particularly at times of peak demand.
22. I am also not persuaded that the issue of car parking could be addressed by a condition, as based on the evidence before me it has not been demonstrated that the site could provide a suitable level of car parking for the quantum of development proposed.
23. The submitted plans also show a vehicular through-route between New Road and Chestnut Road, the latter of which is a private road. A pedestrian link is also shown as being retained through the site, and I note that this would pass through vehicle circulation areas. Had I been minded to allow this appeal then I would have considered these matters further.
24. I conclude that the proposal would not make suitable provision for the parking of vehicles, with subsequent harm to highway safety as a result of on-street parking. The proposal would therefore conflict with the Framework due to the unacceptable impact on highway safety.

Flood Risk and Drainage

25. The appellant's evidence indicates that the site is within Flood Zone 1, which is an area with a low probability of flooding. However, the proposal would significantly increase the amount of hardstanding and roof areas beyond the existing situation, with a commensurate decrease in permeable surfaces.
26. The Authority's validation checklist requires a Sustainable Drainage Statement to be submitted where the total floorspace of the building would be in excess of 1,000m². In my view, this requirement is appropriate to address issues of flooding and drainage which may arise from major development. In that regard, I am mindful of paragraph 163 of the Framework which states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

27. I also note that United Utilities have requested that no surface water shall discharge to the public sewerage system either directly or indirectly. There is no substantive evidence that the proposal would be able to comply with this.
28. I acknowledge that a condition could be imposed at outline stage to require further details of drainage. However, in this particular case, given the limited evidence in relation to drainage and the particular circumstances of the development, I concur with the Authority that further information should be provided to demonstrate that it would be possible to satisfactorily manage surface water. In my view, neither the Authority or myself are able to adequately assess this matter given the paucity of the submitted evidence.
29. I therefore conclude that the proposal would conflict with Policy CS17 of the Core Strategy and the Framework with regard to the consideration of flood risk and sustainable drainage.

Protected Species

30. The Authority refers to the absence of a bat survey in respect of the site. In response the appellant has submitted a Daytime Bat Survey undertaken by a suitably qualified person which has found no evidence of bat activity in the property and has concluded the development site offers negligible bat roost suitability. I also note that the study found no evidence of other protected species such as nesting birds or badger. I consider that this evidence suitable addresses the matter of the potential effect on protected species.
31. I conclude that sufficient evidence has been provided with regards to protected species, and that the proposal would therefore not conflict with Policy CS26 of the Core Strategy or the Framework which together seek to conserve and enhance the natural environment including biodiversity.

Other Matters

32. I note that the Planning Officer's report states that there is support for a hotel on the site in principle particularly with reference to its location in the Rural Service Centre of Windermere. I am also mindful that the proposal would support rural tourism. However, these matters would not outweigh the significant harm I have identified.

Conclusion

33. Notwithstanding my conclusion with regards to protected species, I conclude that the proposal would be harmful to the character and appearance of the area as well as the setting of the CA; highway safety; and flood risk and drainage. Whilst the harm to the CA would be less than substantial, there are no public benefits that would outweigh that harm. The proposal would therefore conflict with the development plan and the Framework as a whole with regard to achieving well-designed places, conserving and enhancing the historic environment, promoting sustainable transport, and meeting the challenge of flooding.
34. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross INSPECTOR