



Appeal Decision

Hearing Held on 6 February 2020

Site visit made on 6 February 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2020

Appeal Ref: APP/Q9495/W/19/3225192

Grasmere Garden Centre, Grasmere, Ambleside LA22 9SW

- 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 Mr M Stewardson, Grasmere Garden Centre against the decision of Lake District National Park Authority.
 - The application Ref 7/2018/5345, dated 8 May 2018, was refused by notice dated 21 September 2018
 - The development proposed is described as "a two-storey hotel in the grounds of Grasmere Garden Centre".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determining the application, the Level 1 Strategic Flood Risk Assessment (SFRA) for Cumbria has been published which has revised the flood risk zones in respect of the appeal site and the Council submitted a copy at the hearing. The appellant was afforded the opportunity to comment on this document.

Main Issues

3. The main issues are:
 - i. Whether the appeal site is a suitable location for the proposed development with regards flood risk, with particular regards to the Sequential Test set out in the National Planning Policy Framework.
 - ii. The effect of the proposed development on the character and appearance of the area, including the adjacent Grasmere Village Conservation Area.
 - iii. The effect of the proposed development on the English Lakes World Heritage Site.
 - iv. The effect of the proposed development on the Lake District National Park.
 - v. The effect of the proposed development on the living conditions of the occupiers of the staff accommodation building of The Grand Hotel with regards to privacy.

Reasons

Flood Risk

4. The Council argues that the appellant has not undertaken an adequate Sequential Test regarding flood risk matters to demonstrate that there are not reasonably available sites elsewhere at a lower risk of flooding to accommodate the proposed development, identified by the council as being a more vulnerable form of development.
5. The National Planning Policy Framework (the Framework) requires decision makers to steer new development to areas at the lowest probability of flooding by applying a Sequential Test to those developments on sites in areas at risk of flooding and not already allocated within the development plan.
6. The SFRA maps show a substantial increase, from previous iterations, in the extent of flood risk zone 3a in and round the appeal site, such that most of the site would now sit within flood risk zone 3a (high probability) and part of the car park would be in flood risk zone 3b (functional floodplain).
7. The appellant's site specific Flood Risk Assessment (Integra Consulting, 15 March 2019) 'Site Re-Zoning Plan' predates the SFRA maps and provides alternative flood risk zones. The report identifies that the proposed hotel building would be situated partly in flood zone 1 with the remainder in flood zone 2, though only marginally so with reference to the surveyed ground level. The car park is identified as being in flood zone 3a and partially in flood zone 2.
8. In response to consultation carried out in respect of the application, the Environment Agency responded¹ stating that the site lies within Flood Zones 2 and 3 but that the proposed development would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere. The letter also states that "if the LPA determines that the Sequential Test has not been met then this application will not be in compliance with the NPPF and the Environment Agency would not support it". I note that the letter predates the most recent site specific Flood Risk Assessment and the revised SFRA maps.
9. Based on the evidence before me it is clear that the appeal site is at some risk of flooding and in accordance with the Framework, Policy CS17 of Lake District National Park Core Strategy (October 2010) (the CS) and National Planning Practice Guidance, a Sequential Test would ordinarily be required to accompany the appeal proposal.
10. However, no sequential test has been carried out in respect of the proposed development. It is the appellant's case that, with reference to a "pragmatic approach" as detailed in National Planning Practice Guidance - 'flood risk and coastal change', there is a functional link between the proposed hotel and the existing Garden Centre business and as such, a Sequential Test would not be necessary.
11. The functional relationship between the hotel and the existing Garden Centre relates to the use of the Garden Centre's catering facilities by guests residing at the hotel and the utilisation of existing staff for the management of the hotel.

¹ Letter dated 16 July 2018 reference NO/2018/110924/01-L01

12. At the Hearing, some time was given to questions relating to the relationship of staffing and management between the proposed hotel and the existing Garden Centre. On the basis of the evidence presented by the Appellant, the relationship appears to relate to the ability to share management functions and staff roles across the Garden Centre and proposed hotel operations.
13. Turning to catering facilities, while it is clear that hotel guests could use the catering facilities in the Garden Centre, I observed at the site visit that there are other businesses catering for tourist's needs in Grasmere. Additionally, the Council state that "there are a number of popular chains which just provide accommodation", though no specific examples are provided.
14. Furthermore, it is acknowledged by both parties that it would not be reasonable to include a condition or other mechanism to link the hotel to the Garden Centre and with regard to the guidance set out in paragraphs 55 of the Framework and 21a-003-20190723 of the Planning Practice Guidance, in particular the test of reasonableness, I agree.
15. Therefore, on the basis of the evidence before me, I find that the functioning of the proposed hotel would not be linked to the existing Garden Centre to such an extent that it negates the need for a Sequential Test.
16. In the absence of a Sequential Test, it has not been demonstrated that it is not possible for the proposed development to be located in zones with a lower risk of flooding. Moreover, the Framework is it clear that the Exception Test, if necessary, is only considered after the application of the Sequential Test.
17. Therefore, I find that it has not been demonstrated that appeal site is a suitable location for the proposed development with regards flood risk and as such the proposed development is contrary to Policy CS17 of the CS and the Framework which seeks to avoid inappropriate development in areas at risk of flooding by directing development away from those at highest risk.

Character and appearance, including Grasmere Village Conservation Area

18. The appeal site consists of part of the car park that serves the Grasmere Garden Centre. The appeal site is located outside of the neighbouring Grasmere Village Conservation Area (GVCA), the boundary of which lies to the North and East of the Garden Centre.
19. The Significance of the GVCA is derived in part from the interaction of the landscape and built environment consisting of a historic core centred around a church. Therefore, its setting, of which the appeal site forms part, contributes meaningfully to the Conservation Area's significance.
20. Paragraph 200 of the Framework states that "Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably."
21. Furthermore, paragraph 194 of the Framework states that "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."

22. The immediate area around the appeal site is a mixture of residential and commercial properties with an open spacious appearance, in contrast with the compact historic core of the village. The site is situated on the edge of the village overlooking established farmland within the setting of the fells and hills that ring Grasmere. Consequently, the proposed hotel would occupy a visually prominent location.
23. The appeal proposal would result in the construction of a 16-room hotel over two storeys and the marking out of some car parking spaces within the existing informal car park area. The submitted plans show that the design is, as described by the appellant, "simple to suit the profile of the site". The resulting building appears as a narrow and tall structure, tightly bound to the edges of the site in contrast to the surrounding built development.
24. The use of traditional materials, specifically stone walls with slate roof, is reflective of the area and would assist the integration of the proposed development into the existing built environment of Grasmere. However, I did not observe balconies or columns within the local area. As such, these prominent features of the appeal scheme would appear as an alien feature in the local area.
25. On the basis of the evidence before me and my observations at the site visit, I find that the proposed hotel would harm the character and appearance of the area resulting in less than substantial harm to the significance of the GVCA.
26. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. Any harm should require clear and convincing justification.
27. It is not at dispute between the parties that the appeal scheme would create some benefits, in particular I have taken into account the benefits that additional tourist accommodation and the jobs created would realise for the Grasmere, a designated Rural Service Centre, and the fact that the development would make use of currently underutilised land. However, the benefits identified by the appellant do not overcome the harm that I have identified above.
28. I have found that the proposed development would harm the character and appearance of the area, including the adjacent Grasmere Village Conservation Area and thus I find that the appeal scheme is contrary to Policies CS01, CS10, CS11 and CS25 of the CS that amongst other matters seek to ensure that new development is designed to complement the existing character of the area.

English Lakes World Heritage Site

29. The appeal site is located within the English Lakes World Heritage Site (ELWHS). Paragraph 184 states that "these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations". The Framework describes World Heritage Sites as being Heritage Assets of the highest significance.
30. As previously stated, the proposed development, despite the use of traditional local materials, nonetheless appears as a narrow and tall structure, tightly

bound to the edges of the site in a prominent location on the edge of Grasmere overlooking the adjacent fields.

31. Consequently, on the basis of the evidence before me and my observations at the site visit, I find that the proposed hotel would fail to conserve and enhance the ELWHS resulting in less than substantial harm under paragraph 196 of the framework.
32. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. Any harm should require clear and convincing justification.
33. It is not at dispute between the parties that the appeal scheme would create some benefits, in particular I have taken into account the benefits that additional tourist accommodation and the jobs created would realise for the Grasmere, a designated Rural Service Centre, and the fact that the development would make use of currently underutilised land. However, the benefits identified by the appellant do not overcome the harm that I have identified above.
34. Consequently, I find that the proposed development is contrary to the provisions of the Framework and CS Policies CS10 and CS11.

Lake District National Park

35. Paragraph 172 of the Framework states that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty.
36. Furthermore, the purpose of the National Park is defined as being to conserve and enhance the natural beauty, wildlife and cultural heritage of the Park and to promote opportunities for the both understanding and enjoyment of its special qualities by the public.
37. CS policies CS01, CS11 and CS25 specifically refer to the need for new development to conserve and enhance the special qualities of the Lake District National Park.
38. I have previously identified that the immediate area around the appeal site has an open spacious appearance and is situated on the edge of the village overlooking established farmland within the setting of the fells and hills that ring Grasmere. As a consequence, the proposed hotel would occupy a visually prominent location.
39. As a result of this prominent location and the appearance of the proposed building as a narrow and tall structure, tightly bound to the edges of the site, the proposed development would not conserve the landscape and scenic beauty of the LDNP.
40. Consequently, I find that the proposed development is contrary to the provisions of the Framework and CS Policies CS01, CS11 and CS25.

Living conditions

41. The proposed building is situated in close proximity to the neighbouring property to the east, detailed in the Officer's report as being 1.5m from the

western boundary of the appeal site. At the hearing the Council identified that that the closest building, being some 7.5m from the boundary, is used as staff accommodation, in association with The Grand hotel on that site. I saw at the site visit that there was some garden paraphernalia that suggests that this area is used for sitting out and other typical garden activities.

42. The submitted plans show, to the ground floor, an accessible room with a patio area and glazed double door facing towards the neighbouring property. To the first floor, a single window in the gable of the proposed building faces to the west, over the neighbouring property, and an enlarged balcony projects beyond the pillars on the southern elevation.
43. The appellant has referred to the proposed 2m high close boarded fence to the boundary and the protection to the privacy of the neighbouring occupiers that this would afford, it was also suggested that a condition requiring the use of obscure glazing to the gable end window could reasonably be applied to any planning permission resulting from this appeal. Furthermore, reference was also made to the potential to require the erection of a screen to the western side of the balcony to reduce any overlooking. I note that the balconies face to the south and therefore any views towards the neighbouring property would be at an oblique angle and that the pillars would partially obscure any such view.
44. Nonetheless, the proposed building would be in close proximity to the neighbouring property. As such, the potential for and perception of overlooking resulting in a loss of privacy for the occupiers of that building would remain.
45. Therefore, I find that the proposed development would have a detrimental impact on the living conditions of the occupiers of the staff accommodation building of The Grand Hotel with regards to privacy contrary to Policy CS11 of the CS, that amongst other matters seeks to ensure that new developments are suitable for their location.

Planning Balance and Conclusion

46. It is the Appellant's case that the proposed development would support the local tourism economy, creating employment opportunities in a designated Rural Service Centre in accordance with, amongst other policies, CS policy CS02. This is a matter to which I afford moderate weight.
47. Nonetheless, I have found that it has not been demonstrated that appeal site is a suitable location for the proposed development with regards flood risk, and I have found harm to the character and appearance of the area, including the Grasmere Conservation Area, the English Lakes World Heritage Site and Lake District National Park. I have also found harm to the living conditions of the occupiers of the adjacent property. As such, the proposed development is contrary to CS policies CS01, CS10, CS11, CS25, CS17.
48. In the context of the above, I find that the adverse impact of the proposed development's conflict with the relevant policies of the CS are not outweighed by the identified benefits.
49. For the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Julie Birkett
Kevin Richardson

FOR THE APPELLANT:

Mark Stewardson
Simon Richardson
Sarika Jhawar

INTERESTED PERSONS:

Richard Staite
Paul Truelove

Late Evidence

Cumbria County Council Grasmere Flood Investigation Report – Flood event 5th-6th
December 2015