



Appeal Decision

Site visit made on 23 June 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal Ref: APP/Q9495/C/20/3245539

Land at St. Andrews, Lake Road, Bowness-On-Windermere, Windermere LA23 3DE

- 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 Hargreaves Enterprises Limited against an enforcement notice issued by Lake District National Park Authority.
- The enforcement notice was issued on 16 December 2019.
- The breach of planning control as alleged in the notice is: Without planning permission, operational development consisting of the erection of single storey bar, refreshments and toilet buildings; the installation of decking, steps and artificial grass; and the alterations of stone boundary wall to form two access openings, as annotated on attached photographs.
- The requirements of the notice are:
 - (1) Permanently remove the single storey bar, refreshments and toilet buildings, the decking, steps, artificial grass and any associated foundations and supports from the Land.
 - (2) Infill the two access openings in the stone boundary wall with stone walling to match the height, width and external appearance of that wall.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

Permanently remove the single storey

Decision

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

Appeal on ground (a), deemed planning permission

Main Issue

2. The main issue in this case is the effect on the character and appearance of the host property, Bowness Conservation Area and the significance of The English Lake District World Heritage Site.

Reasons

3. The appeal site comprises part of the grounds of St. Andrew's, an Italianate villa which is situated in an elevated position above Lake Road and within

Bowness Conservation Area (BCA). The appeal site is located in St. Andrew's foreground, at street level, adjacent to the road and enclosed by a stone wall.

4. From the evidence before to me, including BCA Conservation Area Appraisal and Management Plan, October 2011, the appellant's Heritage Assessment¹ (HA) and my own observations on my site visit, I consider the significance of St. Andrew's as a heritage asset to be mainly attributable to its historic value as an example of a 19th century villa, its fine Italianate architectural details and design, and its prominent position overlooking the Lake on the edge of the town centre.
5. St. Andrew's makes a positive contribution to the townscape and the significance of BCA. The significance of BCA, in particular in so far as it relates to this part of Lake Road, is in my opinion, largely derived from the transition from the built form of the town to the more open character of Bowness Bay. St. Andrews, with its fine architectural details, villa form and more spacious setting, is prominent in views from the Promenade and Bowness Bay, and makes an important contribution to the character of this area. In addition, the relationship of The Belfield Hotel and its grounds, which sweep down to the Promenade, is one of the defining characteristics of this part of BCA. The setting of The Belfield with its sylvan grounds and enclosing stone wall, all contribute to the character of BCA.
6. The English Lake District is a World Heritage Site (WHS) and therefore internationally recognised to be of Outstanding Universal Value. I would concur with the HA that the significance St. Andrew's brings to the wider WHS relates to the development and survival of the Villa, using the topography and Italianate design features to harmonise with the wider landscape.
7. Taking into account the planning history of St. Andrew's, it is clear that the National Park Authority (NPA) consider the use of appeal site as a refreshment garden to be acceptable in principle. Indeed, there is extant planning permission for that use, including a scheme to develop a café/restaurant building within it and another scheme for outside seating with a small garden bar/server, store and toilets. Permission has also been granted for pedestrian access to the garden from Lake Road through new gated entrances.
8. The unauthorised building extends across the eastern boundary of the garden, with the toilet block abutting the stone wall which forms the common boundary of the site with Lake Road. The building has been constructed in timber, partially finished in a grey colour. It has a flat roof which incorporates a projecting canopy. A seating area has been formed by a raised platform finished in artificial grass and is accessed by steps from the gates that have been formed in the boundary wall.
9. Despite being single storey in height and having a flat roof, the building is clearly visible above the site's wall when viewed from Lake Road and the Promenade. I recognise that the footprint of the building is less than the approved café/restaurant scheme². However, the elongated form, scale and proportions of the buildings, which span the full width of the garden, appear as a dominant and incongruous development in the foreground of St. Andrew's. In particular, the development introduces a significant horizontal form across

¹ Heritage Assessment, St. Andrew's Garden Bar, Prepared by Emma Adams & Partners, January 2020.

² National Park Authority Ref: 7/2016/5773

- the site. Overall the development has a cluttered and crude appearance, reinforced by the materials of construction and which draws the eye. Moreover, it interrupts views of St. Andrew's from Bowness Bay and its appearance has a harmful effect on the setting of this Villa.
10. I appreciate that the extant permission for the café/restaurant may have impinged on the views of St. Andrew's from Lake Road, albeit to a lesser extent. However, the form, proportions and layout of the approved scheme would have a better spatial relationship with St. Andrew's. In addition, the café/restaurant would be constructed in traditional materials and the design details also reflected those of the proposed extension to the Villa. I consider that the extant permissions, including the small structures approved within the proposed refreshment garden, would be less harmful to both the setting of St. Andrew's and the character and appearance of BCA, than the unauthorised development. I therefore give this consideration limited weight.
 11. I have taken into consideration the existence of other timber structures in the vicinity of the site, including the ticket kiosks opposite to it. However, the kiosks have a simple utilitarian design and form which reflect the original Victorian ticket offices adjacent to the landing stages. The small scale and appearance of the kiosks, which have pitched slates roofs and a stepped form, sit comfortably in a location close to the Lake and they do not compete with the surrounding vernacular architecture. In contrast, the scale, form and materials of the building the subject of this appeal does not respond to its location within the setting of St. Andrew's Villa. It occupies a prominent position at the entrance to the town centre and the scale and strong horizontal emphasis of the building has a harmful effect on the spatial qualities of this part of Lake Road and BCA.
 12. The boundary wall contributes to the character and appearance of BCA. The NPA have accepted that in order to facilitate access to the refreshment garden, a new entrance from Lake Road through the wall would be acceptable in principle. However, the overall design of the main entrance that has been formed, the scale and detailing of the gates and their posts, are a discordant feature within the boundary wall. When open, the garden is visible to public views and the overall appearance and composition of the space and buildings that have been erected, including the artificial grass on the decked area, have a harmful effect on the character and appearance of BCA.
 13. I have taken into consideration the proposal to increase the height of the boundary wall and I noted the finish that has been provided to the gates and toilet building on my site visit. I have also considered the suggestion that the buildings could be clad in stone. However, although the increase in the boundary wall would help to screen the building from the road, and stone would be a more traditional facing material, these proposals would not overcome the incongruity of the scale and form of the development as a whole. Despite the existence of foliage, the development would still be visible to views from the Promenade, particularly when the gates are open.
 14. I conclude that the development fails to preserve or enhance the character or appearance of BCA and has a harmful effect on the significance of St. Andrew's and the WHS. There is conflict with the National Planning Policy Framework (the Framework) which, at paragraph 193, states that when considering the impact of a proposal on the significance of a designated heritage asset's

conservation, great weight should be given to the asset's conservation. In this case I consider that the harm would be less than substantial in the language of the Framework. Paragraph 196 requires that less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

15. The development makes a contribution to the local economy, including the tourist economy, and provides local employment opportunities. I have no doubt that it also adds to the vibrancy of the town. However, those public benefits could also be accrued through the implementation of the extant permissions, and I am not convinced that there would not be other design solutions available that would have a less harmful impact on the significance of these heritage assets. The public benefits do not outweigh the harm I have identified to the designated heritage assets.
16. I also find conflict with the development plan, in particular with the design and heritage aims of Policies CS01, CS10, CS11, CS27 of Lake District National Park Core Strategy, 2010 (CS) and Saved Policies BE1 and BE11 of the Lake District National Park Local Plan.

Other Matters

17. The NPA are concerned that the development does not meet the needs of people with limited mobility. However, from the evidence before me and my own observations on site, the appellant has made provision for people with mobility disabilities to access the garden. I have had due regard to the PSED³ as required by Section 149 of the Equality Act, 2010 (the Act), which sets out the need to eliminate unlawful discrimination and advance equality of opportunity, although that is a duty to consider, rather than a duty to achieve any particular outcome. The local disability forum has audited the arrangements and confirmed that they are satisfied that the appellant has discharged his duty under the Act and that suitable access arrangements for people with limited mobility have been provided. I therefore find no conflict with Policy CS10 of the CS which, amongst other criteria, supports designs which is accessible for all sectors of the community.
18. I recognise that the provision of outdoor space is particularly important given the current COVID-19 pandemic and I understand how valuable that space is to the appellant's business. However, the time for compliance will allow the business to continue to operate throughout the summer season. In addition, whilst I appreciate the constraints of the public sewer, there is an alternative scheme available for a garden bar in this location. I therefore give this consideration only limited weight.

Conclusion

19. Although I have found that the development provides suitable access for people with limited mobility, it would fail to preserve the character or appearance of BCA and have a harmful effect on the significance of St. Andrew's and the WHS. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal on ground (a) should not succeed.

³ Public Sector Equality Duty

20. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR