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## Appeal Decisions

Site visit made on 22 July 2020

**by Elizabeth Pleasant BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 August 2020**

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**Appeal A: APP/Q9495/C/20/3250688**

**Appeal B: APP/Q9495/C/20/3250689**

**Land near Crake Valley Holiday Park, Water Yeat, Ulverston LA12 8DL**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeals are made by Mr David Khan (Appeal A) and Mrs Helen Khan (Appeal B) against an enforcement notice issued by Lake District National Park Authority.
  - The enforcement notice was issued on 12 March 2020.
  - The breach of planning control as alleged in the notice is: Without planning permission, operational development consisting of the installation of six posts measuring between 800mm and 1200mm high with electric lamps attached and underground electricity supply cable thereto within the area shown edge red on the attached plan and as shown in the attached photographs (A and B).
  - The requirements of the notice are: Permanently remove the six posts measuring between 800mm and 1200mm high with electric lamps from the Land.
  - The period for compliance with the requirements is two months.
  - The appeals are proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeals have 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.
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### Decisions

1. The appeals are 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.

### Appeals on ground (a), deemed planning permission

#### *Main Issue*

2. The main issue in this case is the effect of the development on the landscape of the Lake District National Park, a designated World Heritage Site (WHS).

#### *Reasons*

3. The appeal site lies to the north of Crake Valley Holiday Park and close to the track which serves it from the A5084. The lighting posts have been installed alongside an access track which serves a residential caravan and in a location which it is understood to be occasionally used for tented camping.
4. The site is situated in Coniston Valley and within an area which is identified by the Council's Landscape Character Assessment Supplementary Planning Document, 2011 (SPD) as the Blawith Fells Area of Distinctive Character. The

site is further categorised as Low Fell Landscape Character Type and is situated in an area which is Registered Common Land. Distinctive characteristics of the Low Fells are identified in the SPD and include a strong sense of tranquillity where there is a harmony with the naturalness of the fell landscape. There is a relative absence of dwellings, settlement and minimal sources of a noise and light in what is a relatively open landscape punctuated by patches of deciduous woodland, all of which provide a strong sense of isolation. The SPD also sets out guidelines for managing the landscape, recognising its sensitivity to change and a requirement to maintain a strong sense of tranquillity and isolation in this location

5. The National Planning Policy Framework's (NPPF) gives great weight to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. The Lake District National Park is also a designated WHS. Common Land, shaped by the continuity of traditional agro-pastoralism and local industry in a spectacular landscape, is one of the key attributes which make up this area's Outstanding Universal Value and which give it special character.
6. The appeal site adjoins Crake Valley Holiday Park (HP) and is situated in an area of woodland with undulating hummocky grassland and rocky outcrops typical of the Low Fell Landscape Character Type identified in the SPD. The HP comprises a collection of single storey timber chalets which are discretely located and form a small cluster of built development situated within the woodland area. The HP is however visually distinct and clearly separated from the appeal site which in itself is characterised by undeveloped woodland with clearings.
7. I understand that the light posts are required to provide a safe environment for campers during the hours of darkness. However, from my own observations on site they appeared to be lighting the access track which serves a residential caravan. At the time of my visit there was no camping in this location, albeit there were tents in an area of clearing on the northern side of the access track to the HP. That camping area did not have any lighting. Furthermore, the National Park Authority (NPA) has advised that there is no planning permission for a campsite in this location and only by way of limited permitted development rights for tents. I therefore give this consideration little weight.
8. The individual footprint and sections of the light posts are relatively small. I therefore concur with the NPA that they have limited impact on the accessibility of the Common Land and the attributes of the WHS. However, their overall appearance, design and location where they align a small access track has an urbanising impact on this area of woodland.
9. I appreciate that it would be possible to impose a condition to restrict the number of posts, control the amount of time they are illuminated and their luminance. However, the physical presence and appearance of the lamp posts which align the access track, whether lit or not, has an urbanising impact and erodes the natural qualities and character of this rural landscape. The special character of this landscape area is in part derived from its tranquillity and a sense of isolation. The relative absence of dwellings and settlement means that there are minimal sources of light and this helps to maintain the dark skies. Therefore, even though the amount of light produced may not be

substantial, in this location even a small amount of light would affect the sense of isolation and erode the quality of the local landscape.

10. I conclude that the development does not conserve and enhance the character of the local landscape and special qualities of the National Park. There are no planning conditions that would make the development acceptable. The development conflicts with the development plan, and in particular with Policies CS01, CS11 and CS25 of the Lake District National Park Core Strategy, adopted 2010 which seek to ensure, amongst other criteria, that all development conserves and enhances the special qualities of the National Park, local landscape, the wider countryside and minimises light pollution. The appellants dispute the relevance of some of these policies; however, I consider that each of them has some material relevance to the development the subject of this appeal. I also find conflict with the SPD and Framework, the aims of which are set out above.

### *Conclusion*

11. For the reasons given above and taking into account all other matters raised, the appeals on ground (a) must fail.

### **Appeals on ground (f)**

12. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
13. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose of the notice is to remedy the breach of planning control and injury to amenity.
14. The appellants suggest that to remove all six posts is excessive as it would be possible to overcome any alleged harm by imposing conditions to restrict the number of posts, the hours of luminance and intensity of light emitted. However, it can be seen by my decision on the deemed planning application that I have found that all of the posts and lights are unacceptable, and that there are no planning conditions that could make this development acceptable. Therefore, there are no lesser steps that would achieve the statutory purpose behind the notice and the appeals on ground (f) must fail.

### **Appeals on ground (g)**

15. The issue is whether the compliance period of two months is reasonable. The appellants consider that a period of 12 months would be more reasonable given the current COVID-19 restrictions and possible need to comply with conditions on any planning permission granted.
16. The requirements of the notice are to remove the posts and lamps from the Land. Current Government guidance indicates that construction related works can safely continue and therefore there are no COVID-19 restrictions that would prevent those works being carried out.

17. The works to remove the posts and lamps would not be extensive and I am satisfied that a two month period of compliance is reasonable. The appeals on ground (g) therefore fail.

**Overall Conclusion**

18. For the reasons given above, I conclude that the appeals should not succeed. 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