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## Appeal Decision

Site visit made on 11 March 2021

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

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

**Decision date: 15 March 2021**

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**Appeal Ref: APP/Q9495/D/20/3264869**

**Calm Waters, Newby Bridge Road, Windermere LA23 3PR**

- 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 S Lomax against the decision of Lake District National Park Authority.
  - The application Ref: 7/2020/5488, dated 12 August 2020, was refused by notice dated 1 October 2020.
  - The development proposed is erection of boat store.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr S Lomax against the Lake District National Park Authority. This application is the subject of a separate Decision.

### Procedural Matters

3. The Lake District National Park Authority (the NPA) has confirmed that the emerging Lake District National Park Local Plan 2021 is at an advanced stage of preparation. Therefore, weight may be attached to the emerging policies. Nevertheless, the relevant policies for the determination of the appeal are those in the Lake District National Park Core Strategy including Proposals Map, 2010 (the LDCS).
4. The appellant concedes that the proposed boat store's roller shutter door would be 'out of keeping' and, as part of the appeal, proposes an amendment to replace it with wooden outward opening doors that match the materials on the main building. I am mindful of the guidance in the Planning Inspectorate's Procedural Guide, Planning Appeals- England, which states that, if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application; and, if an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought<sup>1</sup>.
5. Such an amendment would change a main component of the proposed boat store upon which the NPA have not had the opportunity to comment. In

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<sup>1</sup> Annexe M, Procedural Guide Planning Appeals – England. February 2021. The Planning Inspectorate.

addition, having regard to the 'Wheatcroft Principles'<sup>2</sup>, accepting such an amendment would deprive those who should have been consulted on the changed development of the opportunity of such consultation. Consequently, in the interests of fairness to all parties, I have determined the appeal on the basis of the plans submitted to the NPA and upon which it consulted interested parties and determined the application.

6. On my site visit I observed that a foundation had been laid and blockwork walls had started to be constructed in the location of the proposed boat store. Therefore and for the avoidance of doubt, I have determined the appeal on the basis that the development has, in part, already occurred, having regard to the plans submitted with the application.

### **Main Issue**

7. The main issue is the effect of the proposal on the character and appearance of the area, having regard to the appeal site's location within the Lake District National Park and the English Lake District World Heritage Site.

### **Reasons**

8. The appeal site is situated adjacent to the property known as Calm Waters on the eastern shore of Lake Windermere and within the Lake District National Park (the National Park) and the English Lake District World Heritage Site (the WHS).
9. National Parks have the highest status of protection in relation to landscape and scenic beauty. Under the National Parks and Access to the Countryside Act 1949, the two purposes of National Parks are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area; and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public. In accordance with Paragraph 172 of the National Planning Policy Framework (the Framework), I attach great weight to the conservation and enhancement of the landscape and scenic beauty in the National Park as well as to its wildlife and cultural heritage.
10. The appeal site is located within the Lower Windermere Area of Distinctive Character as identified in the Landscape Character Assessment Supplementary Planning Document (the SPD). The SPD affirms that large houses, villas and hotels set within substantial landscaped gardens dominate the eastern shore of Lake Windermere. Many of these properties have their own boat houses and jetties, with the majority of the boat houses having traditional local design features.
11. World Heritage Sites are internationally recognised to be of Outstanding Universal Value. The Framework identifies them as designated heritage assets of the highest significance, which substantial harm to or loss of should be wholly exceptional. In line with Paragraph 193 of the Framework, in considering the impact of development on the significance of the WHS as a designated heritage asset, I attach great weight to the asset's conservation.
12. From the evidence before me, the significance of the WHS is derived, in part, from its historic interest as a spectacular and inspirational landscape and its architectural interest relating to its rich cultural and vernacular built heritage.

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<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

13. The traditional private dwellings and boat houses along with their mature landscape context on the eastern shore of Lake Windermere are important elements of the National Park and positively contribute to the significance of the WHS.
14. The proposed boat store would be located at the side of the lake, set into the existing hillside and adjacent to a concrete slipway to allow access to the water. It would measure approximately 5.2m by 10m with a maximum eaves height of 5m. It would be clad in rough sawn timber and have a slate roof.
15. I accept the functional need and dimensional requirements of the proposed boat store. I also note the utilisation of a 'form follows function' design ethos, the incorporation of a traditional pitched roof and use of natural materials. Nevertheless, I consider that the building's overtly simplistic form and rudimentary appearance, particularly the very crude and industrial metal roller shutter door, would be out of keeping with the character and general high quality of development within the area.
16. The partial setting of the proposed boat store into the existing slope of the land would mitigate its physical and visual impact when viewed from within the residential garden to a degree. Nevertheless, the building's very stark and basic appearance would cause it to be readily visible and unduly conspicuous when viewed from Lake Windermere.
17. As such, the building would appear as a physically discordant and visually intrusive feature, which would fail to respect its sensitive lake side location and would not assimilate well into the surrounding landscape. Consequently, it would significantly harm the character and appearance of the area and, while localised in its extent, would fail to conserve or enhance the local landscape of this part of the National Park.
18. In my view, if the landscape and scenic beauty of this localised part of the National Park would be materially diminished, it follows that the identified significance of the WHS would also be incrementally harmed. Having regard to Paragraphs 195 and 196 of the Framework, although the magnitude of this harm would be modest, and certainly 'less than substantial', it is nevertheless of considerable importance and weight.
19. In accordance with Paragraph 196 of the Framework, this harm is required to be weighed against the public benefits of the proposal. The appellant highlights the ongoing damage to his boat and subsequent repair costs arising from its storage within the existing wet boat house. I recognise that the proposal would provide safe and, in turn, less costly storage of the appellant's boat and trailer. Nevertheless, any benefits arising from the proposal would essentially be of a private nature to the appellant, rather than of a public form. Consequently, I find that the identified harm to the designated heritage asset of the WHS, would not be outweighed by any demonstrable public benefits.
20. Accordingly, I conclude that the proposal would significantly harm the character and appearance of the area, having regard to the appeal site's location within the Lake District National Park and the English Lake District World Heritage Site. As such, it would conflict with Policies CS01, CS02, CS10, CS11, CS25 CS27 and CS28 of the LDCS.

21. Together and amongst other things, these policies recognise the National Park's spectacular and inspirational landscape and require development to: conserve and enhance the National Park's special qualities; be of a scale and nature appropriate to the character and function of the location in which it is proposed; achieve design excellence; conserve and enhance the character and quality of the local landscape; protect the National Park's spectacular and inspirational landscape and its internationally acclaimed historic environment; and, enhance or maintain the character of lakeshore locations.
22. In addition, it would not comply with provisions in the Framework which aim to conserve and enhance both the natural and historic environments, particularly the landscape and scenic beauty in National Parks and the significance of World Heritage Sites.

### **Other Matters**

23. My attention has been drawn to the presence of numerous other wooden boat stores around Lake Windermere, some adjacent to the appeal site which I viewed when on site. I acknowledge that the adjacent buildings appear to have some parallels with the appeal proposal. Nonetheless, from what I could see, none of the structures possessed a metal roller shutter door and so are not wholly comparable to the appeal before me. In addition, the buildings appeared to be historic and, as such, are likely to have been determined within a different local and national policy context. Therefore, their presence carries little weight in my determination of the appeal.
24. No details of any other similar boat stores have been provided to allow me to make any meaningful comparisons with the appeal proposal. In any event, the fact that apparently similar boat stores may exist is not, in itself, a reason to allow unacceptable development. I have considered the appeal proposal on its own merits and found that it would cause harm as outlined above.
25. The appellant highlights that previous proposals to enlarge the existing boat house have been unsuccessful; that a shed previously occupied this location; and, that previous design advice has been followed in the development of this proposal. Nonetheless, no substantive details in respect of any of these matters have been provided and they do not justify the acceptance of the appeal proposal.
26. I am cognisant of Cartmel Fell Parish Council's recommendation that the proposal should be granted approval. I am also aware that no nature conservation or flood risk issues were raised by the NPA. However, these are neutral considerations in the balance and do not outweigh my conclusion on the main issue.
27. The appellant states that the proposal is within the residential curtilage of the property. Be that as it may, it does not alter my conclusion on the main issue.

### **Conclusion**

28. For the reasons given above, I conclude that the appeal should be dismissed.

*F Cullen*

INSPECTOR