

Appeal Decision

Site Visit made on 11 May 2021

by Mr Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021

Appeal Ref: APP/Q9495/W/20/3264853

Crake Valley Holiday Park, Water Yeat, Ulverston LA12 8DL

- 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 David and Mrs Helen Khan of Crake Valley Park Ltd against the decision of Lake District National Park Authority.
 - The application Ref 7/2020/5621, dated 1 October 2020, was refused by notice dated 25 November 2020.
 - The development proposed is the use of land for seasonal tented camping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 19 May 2021 the National Park Authority adopted the Lake District National Park Local Plan 2020 – 2035: Living Lakes, Your Local Plan (Local Plan). The Local Plan replaced the Lake District National Park Core Strategy including Proposals Map (CS) among others. The Landscape Character Assessment Supplementary Planning Document, 2011 has also been revoked. As a result, the CS policies and the Supplementary Planning Document cited in the reason for refusing planning permission are no longer relevant. The most important policies in this case are now Local Plan Policies 01, 04, 05, 07 and 18. I have also had regard to the Lake District National Park Landscape Character Assessment and Guidelines (SPD), adopted by the Authority on 19 May 2021. While the Biodiversity Supplementary Planning Document was also adopted on this date, it only applies to planning applications received by the Authority from 30 August 2021 onwards. I gave both parties a chance to comment on the changes. I have had regard to the responses received in making my decision.

Background

3. There is a complex planning history, some of which is subject to separate proceedings, relating to Crake Valley Holiday Park¹. The main parties dispute whether there is unauthorised development either on or adjacent to the appeal site. However, none of this is subject of the scheme before me and separate appeals have been lodged relating to this and are yet to be determined². I will not therefore consider these matters.
4. In 1976 planning permission was granted on appeal for a maximum of 12 caravans³ subject to four conditions. Since then, an injunction was successful restraining further infringement on rights of common over Blawith and Subberthwaite Common. However, the main parties agree, and I have no

¹ Section 6, Lake District National Park Authority Statement

² Appeal Refs: APP/Q9495/C/20/3265804 and APP/Q9495/C/20/3265805

³ Authority Ref: 7/1975/5249

reason to disagree with their view, that the 1976 permission is extant due to works to the access. The appellant suggests that the siting of a small number of caravans was agreed, but there are no details of this.

5. The approved plans relating to the extant planning permission are not before me. Even so, the assumed site extent for the extant permission⁴ does not seem to be in dispute. Part of the site edged red relating to the scheme before me lies within this assumed site extent, but the two do not entirely accord. The site subject of this appeal includes land to the west of the access and does not extend as far to the north and south as the assumed site extent.
6. A recent request to discharge conditions imposed on the extant planning permission was refused by the Authority⁵. I do not have the details of this decision, but the injunction refers to 'the siting of the caravans has to be agreed with the local planning authority' which relates to condition no. 2 on the extant planning permission. The Authority recognises that if this permission were fully developed then it would markedly change the visual context of the site, however, this seems unclear at the current time given that the conditions would need to be discharged. It is also not within my remit, as part of this section 78 appeal, to formally determine how the site can currently be used as claimed by the appellants.
7. Permitted development rights allow camping for a limited number of days at a time. A Lawful Development Certificate⁶ was applied for to extend the period of tenting on the site. This was withdrawn by the appellants prior to the submission of the planning application now subject of this appeal. However, my decision does not affect either the appellants ability to apply for, or the outcome of a determination under s191 of the Act. Hence, my consideration of this appeal will focus on the use of the appeal site for seasonal tented camping which the appellants have applied to run for a 6-month period between the months of 1 May and 30 September each year.

Main Issues

8. The main issues are the effect of the proposed use on the landscape of the Lake District National Park, a designated World Heritage Site (WHS); and whether or not adequate information has been submitted to assess the proposal's effect on a Priority Habitat.

Reasons

Lake District National Park

9. The appeal site spans either side of a track which connects Crake Valley Holiday Park to the A5084. The site lies within Coniston Valley which has a unique and diverse landscape character dominated by high rugged fells in the west, Coniston Water which runs north to south for most of the length of the valley, and extensive woodlands and forestry plantations on the low fells on the east of the lake. The land rises gradually from the road to the appeal site and land either side of the access track is typical of a low fell on the eastern side of the lake which then gives way to an open area of Common Land.
10. The appeal site is Common Land and within the Blawith Fells Area of Distinctive Character. The distinctive characteristics of this area include patches of

⁴ Annex B, Lake District National Park Authority Statement

⁵ Authority Ref: 7/2021/5058

⁶ Authority Ref: 7/2019/5114

deciduous woodland around the periphery of the higher ground, and a strong sense of tranquillity away from the road due to the openness, the relative absence of development, and the perceived naturalness of the fell landscape. There are dramatic views looking eastwards towards Coniston Water and its wooded setting, which contribute to a distinctive sense of place.

11. The Lake District National Park is a designated WHS and the Coniston Valley positively contributes towards the three intertwining and interdependent themes which make up its Outstanding Universal Value (OUV). These are: a landscape of exceptional beauty, shaped by persistent and distinctive agro-pastoral traditions which give it special character; a landscape which has inspired artistic and literary movements and generated ideas about landscapes that have had global influence and left their physical mark; and a landscape which has been the catalyst for key developments in the national and international protection of landscapes.
12. Common Land is one of the key attributes of OUV that have been shaped by persistent and distinctive agro-pastoral traditions which give it special character. The National Park has one of the largest extents of common grazing in northern Europe and there are more than 4,000 hectares of Registered Common Land in the Coniston Valley. The continuity and consistency of traditional farming practices and land management methods has maintained the landscape effectively in the same way for at least 400 years. The survival and authenticity of the landscape have been aided by the sympathetic management of farms and land.
13. Local Plan Policy 18 supports proposals which enhance and improve the quality of visitor experiences, increase the length of stay of overnight visitors or encourage year-round sustainable tourism. In terms of the latter, the appeal site is either within or adjacent to an existing accommodation site. The site is well located to the existing road network which is a short distance away.
14. From the low-lying land around the lake, the site is screened from view, but the site and its surroundings, when viewed from the fells to the south and west, are visible in the foreground of the panoramic views looking across Coniston Water. The appeal site is contained by the rising land and woodland that help integrate the land into its surroundings, especially when landscaping is in leaf. However, the site and its surroundings are publicly accessible as it is Common Land. Consequently, the landscape is appreciated close up and further away. The proposal is likely to deter persons from accessing the land as the extended use of the land for the period sought is likely to be read as a camping site that is not accessible to the public.
15. The proposal would result in a longer period of camping and activity associated with this in a location that has a strong sense of tranquillity away from the road. In turn, this would affect the function of the land and the ability of Commoners to exercise their rights. While the land would recover outside of the months proposed for its use, it is highly likely that visual evidence of the proposed use would be left between periods of camping. Over the period sought, the effect on the landscape would be more prolonged. The proposal would not improve screening.
16. I am mindful of the extant planning permission, and while there seems to be some overlap between the respective sites, the camping is more than likely to take place on land which it is assumed not to relate to the extant planning

permission. It is also unclear whether the extant planning permission will or could be carried out to its full extent as conditions need to be discharged and the necessary consent in place under section 38 of the Commons Act 2006. While neither can be ruled out, it is questionable, given the previous injunction, whether the extant planning permission might take place or to its maxima. Consequently, in these circumstances it carries little weight and does not justify the appeal scheme.

17. Within the evidence there are references to a single pop-up shower/wc, laundry room with a washer/dryer and a sink and provision of a fridge/freezer, but there are no details of these everyday welfare facilities or confirmation that they would be available to campers to use. These facilities are typically found on other camp sites and some or all of these are important infrastructure given that the use would take place for 6 months a year in perpetuity.
18. The appellants are willing to accept a limitation on the number of tents either through a Section 106 agreement or a planning condition, but there is no agreement before me. While a maximum of 10 tents may seem to be small in scale, I am not convinced that the site has the necessary infrastructure to support the proposed use. A management plan would also not overcome my concerns in this regard or on the National Park's landscape. Accordingly, the proposal would not conserve or enhance the landscape and scenic beauty of the National Park, to which the National Planning Policy Framework (the Framework) gives great weight. The proposal would not positively contribute to the WHS and its OUV. I consider the harm that would be caused would be less than substantial having regard to the Framework.
19. There would be modest benefits to the tourism industry and the local rural economy due to the proposed use and the longer period of opening sought. The proposal may also assist in meeting increased demand for camping facilities particularly in the short-term and increase access to the spectacular landscape. However, there is no substantive evidence to support the view that the proposal would specifically address wild camping across the National Park. In balancing the modest public benefits of the proposal, I consider that they do not outweigh the harm to the WHS to which I give great weight.
20. I conclude that the proposed use would adversely affect the landscape of the Lake District National Park, a designated WHS, and would therefore fail to conserve or enhance it. As a result, the proposal would conflict with Local Plan Policies 01, 05, 07 and 18 and the SPD. Jointly these seek to support proposals which enhance and improve the quality of visitor experiences, increase the length of stay of overnight visitors or encourage year-round sustainable tourism and conserve and enhance the extraordinary beauty and harmony of the Lake District landscape, its special qualities and attributes of OUL. The proposal would also not accord with Framework 196 as the public benefits do not outweigh the less than substantial harm that would be caused.

Priority Habitat

21. Natural England has advised that the proposal is unlikely to have a negative impact on the adjacent Subberthwaite, Blawith and Torver Low Commons Site of Special Scientific Interest and Special Area of Conservation. I have no reason to disagree with this ecological advice. However, the appeal site lies within Priority Habitat designated for its deciduous woodland and heathland. Natural England's consultation response confirms this and there is no

substantive evidence from the appellants that supports the assertion made that the site is not part of this habitat. Adequate information assessing the proposal's potential impact on biodiversity has not been submitted by the appellants to enable the scheme's effect to be assessed. Even though this information may not have been requested to validate the application, the baseline for the site has not been established and it is therefore unclear that the proposal would protect important habitats, sites and species, or what, if any, mitigation measures may be required.

22. I therefore conclude, on this issue, that adequate information has not been submitted to assess the proposal's effect on a Priority Habitat. As such, the proposal would conflict with Local Plan Policy 04 which sets out the need to protect important habitats, sites and species.

Conclusion

23. The appeal scheme would not accord with the development plan as a whole and there are no material considerations that indicate that I should take a different decision other than in accordance with this.

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

Andrew McGlone

INSPECTOR