



## Appeal Decision

Site Visit made on 15 June 2021

**by R Hitchcock BSc(Hons) DipCD MRTPI**

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

**Decision date: 02 July 2021**

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**Appeal Ref: APP/Q9495/W/21/3269840**

**Land off Elleray Road, (opposite Caxton Cottage), Windermere LA23 1AG**

- 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 & Mrs D Fletcher against the decision of Lake District National Park Authority.
  - The application Ref 7/2020/5748, dated 6 November 2020, was refused by notice dated 22 December 2020.
  - The development proposed is a one-bedroom, detached dwelling to meet local need (Re-submission of 7/2020/5034).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Park Authority's Decision Notice refers to Policies in the Lake District National Park Core Strategy and saved Policies in the Lake District National Park Local Plan 1998. Since the date of the Authority's decision it has adopted a new local plan which supersedes those referred to in the Decision Notice. The Authority has provided copies of these policies. The appellant has also been provided with an opportunity to comment on this matter. As I am required to do, I have had regard to the relevant policies in the adopted Lake District National Park Local Plan 2020-2035 [May 2021] (LP) in determining this appeal.

### Main Issues

3. The main issues are the effect of the development on:
  - the character and appearance of the locality with particular regard to its position in the Windermere Conservation Area, the Lake District National Park and the English Lake District World Heritage Site
  - the setting of the Grade II listed buildings at 12-18 High Street
  - the living conditions of prospective and nearby residents.

### Reasons

#### *Character and appearance*

4. The site is a roughly triangular area of land covered in loose stone. It is partially enclosed by a high buttressed stone wall along its southern side and lower walls which extend to the street frontage to enclose a linear raised plant

border. The plot lies within a rural service centre and the Windermere Conservation Area (CA).

5. The significance of the CA derives from its cultural and architectural heritage associated with the rapid historic development of the area over a period of some 50 years following the arrival of the railway in 1847. The area consists of high-density mixed development on sloping ground. The scale of buildings vary but are generally constructed in local stone or render finished with pitched slate roofs. The buildings are individually designed but, in addition to their external materials, display a variety of common characteristics and detailing. These include features such as bays, dormer windows, ornate bargeboards, chimney stacks and finials which, amongst other features, reflect the 'Lakeland Victorian' style which is a positive feature of the area.
6. The majority of the group of buildings surrounding the site are identified as buildings of special character in the Windermere Conservation Area Appraisal and Management Plan [2011]. These are buildings which derive from the period of intensive development. In addition, there is a short terrace of earlier Grade II listed cottages at 12-18 High Street set behind the higher boundary wall and some sympathetic infill development.
7. As the site lies within the CA, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the CA.
8. The proposed scheme would introduce a 2-storey dwelling finished in stone about the ground floor with rendered elevations above. The front elevation facing on to Elleray Road would be gabled with full height glazing. The upper part of the northern elevation would feature a series of consecutive vertical steps with corresponding breaks in the northern roof slope and ridgeline to accommodate the divergent main elevations of the unit. These spread to form a double apex roofline to the rear.
9. The scale of the building is confined by the plot size and efforts to minimise its height would ensure that it would appear modest in overall scale in comparison to the majority of the surrounding buildings. As a subordinate addition which is set back from the road frontage, it would not be dominant in the street scene. However, it would be clearly visible and would present an uncharacteristic elevation largely consisting of glazing to the frontage. Whilst other properties in the locality show various scales and proportions of window openings, there are few examples of such extensively glazed elevations.
10. Furthermore, the contrived roof form and upper northern elevation would lack the simplicity and traditional appearance of the surrounding buildings. In conjunction with the substantially glazed frontage, the broken ridge line and consecutive rendered panels stepping into the roof slope would cause the proposal to be conspicuous in its setting and contrast with the characteristic forms of development found locally. This would be in an area identified as sensitive to new development which fails to reflect the local vernacular or Victorian character in the Council's Landscape Character Assessment and Guidelines Supplementary Planning Document. Accordingly, I find that it would cause harm to the character and appearance of the CA.

11. Paragraph 172 of the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. These areas have the highest status of protection in relation to these issues. In addition, great weight must be given to the important consideration of the conservation and enhancement of wildlife and cultural heritage. Moreover, the National Park is a designated World Heritage Site (WHS) inscribed on the basis of its cultural landscape. The area is therefore a heritage asset of the highest significance.
12. The townscape of Windermere, and the CA within it, form an integral part of the Lower Windermere Area of Distinctive Character. As a component of the Special Qualities of the Lake District National Park (LDNP), and contributor to the Outstanding Universal Value of the WHS, it follows that the harm I have identified in relation to the CA will cause harm to the WHS and the LDNP.
13. Whilst this harm would be no greater than less than substantial within the context of Paragraph 196 of the Framework, less than substantial harm does not equate to a less than substantial planning objection. The Framework identifies that where less than substantial harm to the significance of a designated heritage asset occurs, this harm should be weighed against the public benefits of the proposal. I undertake this assessment within the overall conclusion of this decision. Nonetheless, at this stage it is important to recognise that the proposal would be contrary to Policies 01, 05, 06 and 07 of the LP as they seek to conserve and enhance the extraordinary beauty of the Lake District landscape, its Special Qualities and attributes of Outstanding Universal Value, the conservation and enhancement of heritage assets, and securing appropriate design of development to maintain local distinctiveness, character, appearance and sense of place.

#### *Listed buildings*

14. Section 66(1) of the Act, requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
15. The adjacent building at 12-18 (evens) High Street is a Grade II Listed Building. The two-storey vernacular terrace of cottages with white-washed rubble walls, projecting gabled porches and original form windows is set behind The Lamplighter, a hotel and restaurant fronting on to High Street. The building also adjoins the rear of The Cottage guest house which fronts on to Elleray Road adjacent to the site.
16. The set back position of the terrace means views from the adjacent streets are limited to those between the frontage buildings. On Elleray Road, only the first-floor windows, roofscape and chimney stacks of the terrace are visible. These views are framed by the surrounding buildings of special character and the buttressed wall.
17. The introduction of the proposal would have no direct effect on the building. It would only visually obscure a small part of the terrace and the retaining wall. However, its close proximity, higher position and uncharacteristic appearance within the group would create a form of development that would visually compete with the simplicity of the listed building. It would diminish the terrace's standing and the contextual relationship with the surrounding

buildings of significance. I therefore find that it would result in a negative effect on the setting of the listed building. This would conflict with Policy 07 of the LP as it seeks to conserve and enhance the significance of heritage assets, including their settings.

18. Again, in the context of Paragraph 196 of the Framework, this would amount to less than substantial harm and should also be weighed against the public benefits of the scheme. I assess this within the conclusion below.

*Living conditions*

19. The proposed dwelling would provide a one-bedroom unit with accommodation set over two floors. The site is located within an enclave between properties primarily in residential or holiday let uses. The plot sits higher than Ellera Road and the surrounding levels increase to the north and east.
20. The substantial part of the development would sit between the listed terrace and Caxton Cottage, a 2-storey dwelling lying on the opposite side of the driveway into the enclave. Caxton Cottage features a projecting bay to its side elevation facing the site. The bay contains ground and first-floor windows serving habitable rooms on its south-eastern elevation.
21. The forward part of the unit would lie directly opposite the bay windows. The upper floor outlook from Caxton Cottage would address the sloping roofscape of the building such that a broader outlook would be retained. The lower window would address the forward part of the 2-storey side elevation at close quarters. This would close-off a significant part of the outlook and create an overbearing form of development to the single ground-floor window serving the room.
22. Furthermore, the dwelling would be sited south-east of the window. This currently benefits from a high degree of direct sunlight as a consequence of its orientation and open aspect beyond. The position and height of the building would notably overshadow the window for the majority of morning hours. The effects on light and outlook would cause significant harm to the living conditions of the residents of that property.
23. The direct effects on windows serving properties to the rear of the site would not be significant on account of their skewed orientation to the building and the intervening distances. However, the eastern elevation would be built in close proximity to an amenity area associated with 'Eller Close', a dwelling located to the rear of the site. Although the immediate area is partly used for vehicle parking, it benefits from some landscaping and a seating area. Notwithstanding that windows in the eastern elevation of the proposal could be treated with obscure glazing to protect neighbours' privacy, the height and close proximity of the building would loom large over the appeal site's north-eastern boundary. This would significantly impose on the adjacent space and overbear on users of the area. This would cause harm to the living conditions of occupiers of Eller Close.
24. In relation to the size of the unit proposed, the Authority has directed me to the nationally described space standards [2015]. These are not incorporated within the LP. The Planning Practice Guidance (PPG) states that 'Where a local planning authority (or qualifying body) wishes to require an internal space standard, they should only do so by reference in their Local Plan to the

nationally described space standard<sup>1</sup>. Whilst those standards cannot, therefore, be afforded full weight in this case, they provide a guideline to the standards of accommodation that would normally be expected for reasonable day-to-day living needs.

25. The appellant's assessment indicates that the proposals would meet the national minimum standard for a 1 bedroomed 2-storey dwelling. This is not contested by the Authority. The arrangement of accommodation would be dictated by the restrictions imposed by the plot size and shape. However, the plans indicate workable floor spaces. Although the outlook on each floor would be substantially limited to the main glazed opening facing Elleray Road, given the limited depth of the building and natural light gained by other openings, I find this would be capable of delivering a reasonable standard of accommodation.
26. The large windows would enable views into the building from the road and shared driveway adjacent. However, this would not be an unusual scenario in areas of high-density housing and could be controlled from within the building if so required. It does not therefore provide a clear basis for a refusal of planning permission.
27. For the above reasons, whilst I find that the proposal could provide a suitable standard of accommodation for occupiers, it would cause significant harm to the living conditions of some nearby residents through overshadowing, the creation of poor outlook and as an overbearing form of development. This would conflict with Policy 06 of the LP which, amongst other things, requires that development must not have an unacceptable impact on the amenity of adjoining residents due to overshadowing, visual intrusion and overbearing effects.

### **Other Matters**

28. I note the observations of local residents in regard to the difficulties in vehicle turning in close proximity to the site. Although sufficient space would be provided for a small vehicle, there would be no provision for turning within the site. However, given the extent and nature of the accommodation, its intended occupancy, and the highly accessible location close to services and public transport sufficient to minimise private vehicle use, I find that any effects on highway safety arising from the development would not be significant.
29. Concerns about the effects on local drainage systems are a matter capable of being controlled by planning condition. This could secure a drainage strategy and implementation based on the hierarchy of sustainable drainage principles.

### **Planning balance and Conclusion**

30. As set out above, I have found that the development would cause harm to the character and appearance of the locality, the CA, LDNP and WHS. It would also have an adverse impact on the setting of a listed building. These are matters to which I must attach great weight<sup>2</sup>. In addition, the proposal would cause significant harm to the living conditions of nearby residents.

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<sup>1</sup> Paragraph: 018 Reference ID: 56-018-20150327

<sup>2</sup> Paragraphs 172 and 193 of the Framework

31. The scheme would align with the Authority's policy for housing delivery; the site lies in a sustainable location in relation to the town centre and transport links. It could be secured for local occupancy to comply with Policy 01 of the LP to meet a full-time local community demand. This would be a public benefit of the scheme which attracts considerable weight.
32. I acknowledge the appellant's attempts to minimise the effects of the development through limiting its overall height and utilising materials common in the locality. However, for the reasons provided, I do not consider those to constitute benefits of the proposal in the circumstances of the case.
33. I also note the inclusion of a parking space constructed in permeable paving, the installation of renewable energy measures and ability to construct the proposal without harm to the existing foul drainage systems. As requirements of policies in the LP, these are not benefits in favour of the development.
34. Taking all of these matters together, whilst I have found in favour of the appellant in regard to the living conditions of prospective occupiers, I do not consider this, or the sum of the benefits of the scheme identified above, outweigh the great weight afforded to the conflict with the development plan and Framework in relation to heritage assets, the National Park and the effects on nearby residents. There are no other material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*R Hitchcock*

INSPECTOR