



Appeal Decision

Site visit made on 11 January 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal Ref: APP/Q9495/C/21/3282247

Land at Grasmere Common, Ambleside

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Lowther Estate Trust against an enforcement notice issued by Lake District National Park Authority.
 - The notice, numbered E/2020/0226, was issued on 17 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission, operational development consisting of the installation of a pay and display machine, cabinet, and post (supporting ANPR camera, solar panel and signage) in the approximate position marked with a cross on the attached plan and as shown on the photographs attached to this notice.
 - The requirements of the notice are:
 - i. permanently remove the pay and display machine, cabinet, post (supporting the ANPR camera, solar panel and advertisement), and associated signage from the Land; and
 - ii. restore the surface of the land to its condition before the development took place.
 - The period for compliance with the requirement is one month.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended and the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.
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Decision

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

Ground (a) and the deemed application for planning permission

2. The main issue is the effect of the development on the character and appearance of the area
3. The site is located in the Lake District National Park, and the National Planning Policy Framework 2021 ('the Framework') states that great weight be given to conserving and enhancing its landscape and scenic beauty and that the conservation and enhancement of wildlife and cultural heritage are also important considerations. The Lake District National Park is also a World Heritage Site, which the Framework describes as a heritage asset of the highest significance. Its significance derives in part from its cultural landscape of exceptional beauty, shaped by persistent and distinctive agro-pastoral traditions which give it special character (and which includes the common land). The Framework states that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation

4. The appeal site is part of undeveloped common land in the open countryside. It is accessed from a small road (the U5526) on the side of a hill within woodland and is well surrounded by trees and vegetation. The site has hardstanding which the Authority accept is long established, and is not included in the description of the development in the notice. The notice seeks to enforce against the pay and display machine, cabinet, and post (supporting the ANPR camera, solar panel and signage), and these are clearly visible from the road when passing.
5. The Authority's case is that the man-made infrastructure in this location is at odds with the predominantly undeveloped character of the area, which causes harm to the visual character of the immediate area with consequent harm to the landscape of the national park and the World Heritage Site
6. The appellants case is that the development does not cause visual harm as there are other car parks in the area with associated signage and infrastructure, and that the development in this case is in keeping with the surrounding built environment including the existing hardstanding and road. In addition, the appellant argues that the carpark as a whole prevents ad hoc parking in the vicinity, although there is nothing before me to support this view.
7. The height, massing, materials and colour of the permanent parking machine and associated signage and equipment is evidently man-made which is jarring in appearance within this location, clearly visible from the road, and very different in character to the natural environment of the immediate vicinity. I find that the visual effect of the parking machine and associated signage and equipment is incongruous in the otherwise rural, woodland setting which causes harm to the character and appearance of the area and less than substantial harm to the significance of the World Heritage Site.
8. As harm has been identified to the significance of the World Heritage Site as a designated heritage asset, the Framework requires that the harm is weighed against the public benefits of the development. The appellant has argued that the income from the carpark is used for the upkeep of Grasmere common, its carparks, agricultural and forestry practices but has not provided any details regarding the sums of money that have been used in this way, and I therefore give this limited weight. Other benefits identified by the appellant include the fact that the paid car park discourages long-stay and overnight parking, that the signage alerts drivers to presence of car parks rather than using ad hoc parking and that it also promotes a modal shift away for private car by eliminating free parking. Some of these reasons contradict each other, as alerting drivers to the existence of car parks cannot also said to be encouraging less use of private cars. I also give these reasons limited weight in terms of public benefits as the hardstanding would remain and there is no evidence that this would not continue to be available and used as parking on the common land. There is also nothing before me regarding the effect that paid parking in this location would have on the use of private cars in the area or parking habits.
9. The public benefits do not therefore outweigh the considerable importance and weight that must be attached to the desirability of preserving or enhancing the character or appearance of the World Heritage Site.

10. The development causes harm as set out above and is in conflict with Lake District National Park Local Plan 2020 – 2035 including; Policies 01 and 05, which amongst other things, seek to protect the significance and special qualities of the Lake District and its spectacular landscape; Policy 02 which seeks to ensure that development is of a scale and nature appropriate to the character and function of its location; and Policy 07 which aims to conserve or enhance the significance of heritage assets. The solar panels may accord with Policy 20 which seeks to promote the use of renewable and low carbon energy, but this does not resolve the conflict with the other development plan policies and the Framework. In the absence of any material considerations of sufficient weight to overcome this conflict, I conclude that the appeal 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.

Zoë Frank

INSPECTOR