



Appeal Decision

Site visit made on 10 January 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2022

Appeal Ref: APP/Q9495/W/21/3273371

High Dyke, Cockermouth CA13 0RA

- 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 Malcolm Wilson against the decision of the Lake District National Park Authority.
 - The application Ref 7/2018/2297, dated 15 October 2018, was refused by notice dated 20 October 2020.
 - The development proposed is the demolition of farmhouse and adjacent cottage and erection of new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Lake District National Park Local Plan 2020-2035 (the LP) was adopted by the Local Planning Authority (LPA) on 19 May 2021. This now constitutes the development plan for the LPA's administrative area and its policies supersede those listed on the LPA's original decision notice. Furthermore, the Government published a revised version of the National Planning Policy Framework (the Framework) on 20 July 2021. Both parties have had an opportunity to comment on these policy changes during the course of the appeal.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the surrounding area, with particular regard to the Lake District National Park and the English Lake District World Heritage Site; and,
 - The effect of the development on protected species, with particular regard to bats.

Reasons

4. High Dyke farmhouse is a substantial two storey, double fronted dwelling dating from the late 19th century, with its attached cottage thought to be of earlier origins - possibly 17th century. The farmhouse is constructed of sandstone rubble with a render cladding incised to give the appearance of stucco, under a hipped roof covered in local Buttermere slate. The site falls within both the Lake District National Park and the English Lake District World Heritage Site (WHS).

5. The building contains a number of architectural features of interest including sliding sash timber windows flanked by sandstone surrounds with decorative chamfered detailing, mullions and moulded arched headers to front facing windows. Its frontage has a broadly symmetrical appearance, with the exception of a projecting bay window to the left. The principal entrance comprises a four-panel timber door, framed with chamfered stone jambs and header, and incorporating a fine decorative framed transom light. Ground floor windows to the front are also topped with a stone cornice. In combination, these historic architectural features provide a sense of formality and status, providing a good example of an affluent Victorian farmhouse and attached cottage, set alongside a range of traditional agricultural buildings.
6. The appellant's Heritage Statement¹ concludes that the appeal property is not considered to have sufficient heritage interest to be identified as a non-designated heritage asset when assessed against Historic England guidance². However, I am mindful that the guidance cited has been superseded by updated guidance which has not been considered. Nevertheless, from my own observations and on the basis of the evidence before me, including the commentary set out in the appellant's Heritage Statement, I consider that the farmhouse and cottage offer both historic and architectural interest that yields a degree of heritage significance sufficient for it to be considered as a non-designated heritage asset. The fact that the property is not formally included on a Local List of heritage assets does not detract from my findings in this regard.
7. In addition, there is also group value in the appeal site's historical association with the adjacent range of traditional stone-built farm buildings. To my mind that value is increased by the well-preserved appearance of the farmhouse and adjacent farmstead which together make a positive contribution to the surrounding landscape. A landscape that is characterised by scattered historic farmsteads and pastoral land occasionally interrupted by blocks of woodland.
8. The Framework requires that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
9. The proposal seeks to demolish the farmhouse and adjoining cottage and replace them with a large two storey dwelling with basement. The proposed dwelling would be positioned in the same location as the existing dwellings and have a similar orientation with its primary elevation facing towards the northeast. Its roof would comprise a series of shallow pitches and ridgelines covered in local slate, whereas its elevations would be in local stone broken up by large sections of glazing, vertical timber cladding and a large balcony with glass balustrading.
10. The replacement dwelling would be of a considerable size with multiple projecting elements giving rise to a complex roof form and resulting in a sprawling and bulky appearance. The use of large areas of glazing and timber cladding, coupled with the building's contemporary design with large oversailing eaves and balcony, would introduce a suburban character that would be incongruous at this location and at odds with the existing agrarian

¹ Heritage Statement, High Dyke, Cockermouth by Graeme Ives Heritage Planning, dated February 2019

² Local Heritage Listing, Historic England Advice Note 7, Published 2016.

character of the site and its surroundings. The development's discordant form and appearance would be particularly noticeable in short range views experienced from along the adjacent public highway to the immediate southwest and, to a lesser degree, in longer range views from the surrounding landscape to the northeast and east.

11. Accordingly, by virtue of its design and bulky appearance the proposal would be an overtly contemporary building that would dominate, and not integrate well with, its surroundings. It would therefore not be sympathetic to the character or appearance of the local area and would result in the harmful loss of a non-designated heritage asset. Consequently, the proposal would result in significant harm to the surrounding landscape.
12. In reaching this finding, I have considered the content of the appellant's Visual Appraisal³, which has considered eight viewpoints predominantly to the east and southeast of the appeal site. However, this technical assessment has not considered the short-range views available from the adjacent public highway and therefore its scope is limited.
13. The WHS is a designated heritage asset of international acclaim and which the Framework identifies as being an asset of the highest significance. The WHS's attributes of Outstanding Universal Value (OUV) are based on a combination of attributes falling under three intertwining and interdependent themes of landscape shaped by persistent and distinctive agro-pastoral traditions, which has inspired artistic and literary movements and generated ideas about landscape that have had global influence, and which has been the catalyst for key developments in the approach to national and international landscape protection.
14. The appeal site is to the northwest of the Buttermere Valley and is separated from the main valley system by the landform of Lowswater Fell and Fellbarrow. The area has components of attributes for all three themes of OUV⁴, including historic farmsteads which are scattered throughout the landscape and provide a narrative to the distinctive agro-pastoral traditions of the area, and which have shaped this part of the Lake District's impressive landscape. As such, the appeal site and its surroundings contribute to the OUV and significance of the WHS.
15. Given my findings on landscape effects above, there would also be harm to the OUV of the WHS. As the proposal's effects would be localised to the site and its immediate surroundings, the harm to the WHS would be less than substantial. Nevertheless, this harm is of great weight and importance. Under such circumstances the Framework requires the harm to be weighed against the public benefits of the proposal.
16. There would be some economic benefits accrued through the construction of the new dwelling and a new build property could offer greater thermal efficiencies and an overall reduction in energy consumption. However, as the proposal relates to the provision of a single dwelling, these benefits would be limited. Accordingly, the public benefits would not be of sufficient weight to outweigh the harm to the WHS.

³ Visual Appraisal by Barnes Walker

⁴ The Buttermere Valley Summary Description, published by the Lake District National Park Authority

17. To conclude on this main issue, the development would result in the complete loss of a non-designated heritage asset that would subsequently result in significant harm to the character and appearance of the surrounding area, with particular regard to the Lake District National Park and the English Lake District World Heritage Site. It would therefore be contrary to Policies 01, 02, 05, 06 and 07 of the LP which together, among other things, require that development be appropriate to the character of its location, that the extraordinary harmony and beauty of the landscape including attributes of OUV is conserved, that design excellence is achieved in all development, and to conserve and enhance the significance of heritage assets.
18. In these regards, the proposal would also conflict with the design, heritage and landscape policies of the Framework. These policies identify heritage assets as irreplaceable resources that ought to be conserved in a manner appropriate to their significance and also affords the highest status of protection to the landscape and scenic beauty of National Parks. The proposal would also be inconsistent with the statutory purpose for which the Lake District National Park is designated, that primarily being to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, as set out at Section 11 of the National Parks and Access to the Countryside Act 1949 (as amended).

Protected species

19. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) imposes a duty on me to consider whether the proposal would affect European Protected Species (EPS) and if so whether any mitigation or compensation measures would address any harm. Policy 04 of the LP is consistent with the statutory duty and is clear that support will only be given to proposals which would have significant and harmful direct or indirect effects on biodiversity and ecosystems processes where the need for the development clearly outweighs the harm caused and where an appropriate scheme is proposed which will secure compensation and net increases in biodiversity.
20. The appellant's Protected Species Survey has identified a small maternity roost of soprano pipistrelle bats and a natterer's bat roost at the western corner of the main house. The survey also states that, although not recorded, and not present at the time of the emergence survey, it is known that a large pipistrelle colony has used the site and number in excess of 150 individuals have been counted leaving the site from above the bathroom window on the southwestern aspect of the house. The report concludes that further survey work is required to assess the size, location and extent of the roost at the property.
21. Bats are listed as an EPS under the Habitats Regulations. Government advice⁵ in this regard states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. Whilst the appellant's Protected Species Survey has found the need for further survey work to be conducted, it is clear that proposal would lead to the complete destruction of the identified bat roosts and no mitigation nor compensation is offered.

⁵ Circular 06/2005: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system, Office of the Deputy Prime Minister, 16 August 2005

22. The appellant suggests that the issue could be addressed through the imposition of a planning condition for further survey work and to secure any mitigation measures. However, Government advice is clear that any necessary measures to protect species should be in place through conditions and/or planning obligations, before permission is granted. The additional survey work is required to inform any mitigation and compensatory measures and therefore in its absence I cannot be sure that sufficient measures can be secured.
23. Furthermore, I have not been presented with sufficient evidence to demonstrate that the development is necessary for preserving public health or public safety or any other imperative reasons of overriding public interest. Accordingly, for this reason alone, it is unlikely that the appellant would secure the necessary derogation from the Habitats Regulations that would be required for the granting of a licence from Natural England that would allow disturbance or removal of the bat roots.
24. For these reasons, I conclude that the proposal would have an unacceptable effect on protected species, with particular regard to bats. Thus, it would conflict with LP Policy 04 and the associated provisions of the Framework which together seek to protect important habitats, sites and species.

Other Matters

25. It has been put to me that the existing farmhouse and cottage are in need of significant repair and restoration and a Redevelopment Cost Plan⁶ has been submitted to support the appellant's case. The report identifies a repair and refurbishment cost of £1,349,495 set against a demolition and new build cost of £1,201,193, suggesting that repair and restoration is not economically viable. However, a detailed assessment and survey of the condition of the building has not been provided and therefore there is little evidence to justify the level of proposed repairs and interventions. Accordingly, the appellant's scheme for repair and refurbishment, and the associated costings, appears to have been significantly overstated.
26. Indeed, at the time of my visit both properties were occupied and did not appear to be in a significant state of disrepair. It is also not unusual for a building of this age to require some repairs and a more frequent schedule of maintenance compared to that of a more modern property. Consequently, this matter attracts little weight and does not therefore provide a justification for allowing the appeal.

Conclusion

27. For the reasons set out above, I have found the proposal to be contrary to the policies of the development plan and no material considerations of sufficient weight have been advanced to outweigh that conflict. Therefore, I conclude that the appeal should not succeed.

J M Tweddle

INSPECTOR

⁶ New Residential Dwelling at High Dyke, Brandlingill Redevelopment Cost Plan by Baker Mallet, dated March 2021