

Appeal Decisions

Site visit made on 10 February 2022

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

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Appeal A Ref: APP/Q9495/W/21/3279632

26 Lowther Village, Lowther, CA10 2HP

- 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 Thomas Hunt against the decision of the Lake District National Park Authority.
 - The application Ref 7/2021/3035, dated 6 March 2021, was refused by notice dated 6 May 2021.
 - The development proposed is described as a 'proposed extension to the rear of the property to provide a dining room/kitchen on the lower ground floor, a living room extension on the ground floor and a third bedroom using the roof space. The footprint of the building is defined by existing walls with some small modifications for construction reasons and will use and re-use materials already on site and from the existing building. The height of the extension has been set to match that of the opposite end of the crescent. Internally, the proposal also includes modifications to the staircase between the ground floor and the first floor to enable the enlargement of the existing bedroom 2 on the first floor.
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Appeal B Ref: APP/Q9495/Y/21/3279634

26 Lowther Village, Lowther, CA10 2HP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Thomas Hunt against the decision of the Lake District National Park Authority.
 - The application Ref 7/2021/3027, dated 20 February 2021, was refused by notice dated 6 May 2021.
 - The works proposed are described as a 'proposed extension to the rear of the property to provide a dining room/kitchen on the lower ground floor, a living room extension on the ground floor and a third bedroom using the roof space. The footprint of the building is defined by existing walls with some small modifications for construction reasons and will use and re-use materials already on site and from the existing building. The height of the extension has been set to match that of the opposite end of the crescent. Internally, the proposal also includes modifications to the staircase between the ground floor and the first floor to enable the enlargement of the existing bedroom 2 on the first floor.
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Decision

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed.

Preliminary Matters

3. As part of their appeal submission, the appellant has provided a set of revised drawings¹ with an alternative design for the proposal. However, I am mindful that the appeal process should not be used to evolve a scheme to overcome the

¹ Drawing No.'s 2(A), 3(A), 4(A) and 5(A)

Local Planning Authority's (LPA) reasons for refusal and instead a fresh planning application should usually be made².

4. Furthermore, in considering whether to accept these amended plans I have had regard to the 'Wheatcroft Principles'³. That is to say, if I were to accept the revised drawings, would my doing so deprive those who should have been consulted over the changed development the opportunity of such consultation. In this case, it is my view that to accept the revised drawings would prejudice the interests of the LPA, interested parties and statutory consultees, who have not had an opportunity to comment on the revised drawings and may have observations to make. I have therefore considered the appeal on the basis of the plans and drawings that were before the LPA when it made its decision.
5. The Lake District National Park Local Plan 2020-2035 (the LP) was adopted by the LPA on 19 May 2021. This now constitutes the development plan for the LPA's administrative area and its policies therefore supersede those listed on the LPA's original decision notices. 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 the implications of these policy changes during the course of the appeal.

Main Issues

6. The main issues in this case are:

- In relation to both appeals, whether the proposal would preserve the special architectural and historic interest of the Grade II* listed building, 23-26 Lowther Village, of which the appeal property forms a part, and whether it would preserve or enhance the character or appearance of the Lowther Conservation Area;
- In relation only to Appeal A, 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 the living conditions of neighbouring occupiers, with regard to their privacy and outlook.

Reasons

Special interest and significance

7. The appeal site is at the end of a curved terrace of four houses, 23-26 Lowther Village, dating from 1766-73 and included within the Statutory List at Grade II*. The houses form one quadrant of a circus of which only half was built as part of a model village for the Lowther Estate by renowned neoclassical architect and designer Robert Adam. From the front, the central part of the terrace appears to be single storey and is flanked by two-storey single-bay wings at either end, giving a sense of grandeur to the terrace. To the rear, owing to a dramatic change in land levels, the property is arranged over three stories, with a lower ground floor. The significance of the building derives from the extraordinary quality of its overall design, which together forms part of a well-preserved single architectural set-piece.

² Annexe M of the *Procedural Guide Planning Appeals – England* advises that 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.

³ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL, 1982, P37]

8. As part of a planned village, the listed building is an exceptional example of a masterplanned development, with the interrelationship between differing elements of the village, and their visual and architectural harmony, contributing to the significance of individual buildings. The significance of the appeal property is not only derived from its contribution to the wider layout of the village but also from the simplicity of its overall design and the use of a small palette of high quality materials, with graduated green slate roofs, mixed sandstone rubble walls and red sandstone lintels and sills, albeit with some minimal modern interventions.
9. The listed building sits alongside No.s 21-22 Lowther Village, also listed at Grade II*, which forms the other half of the crescent. Together the listed buildings form a unique architectural set-piece at the entrance to the village, providing a strong sense of arrival. In doing so, they make a strong positive contribution to the character and appearance of the Lowther Conservation Area, the significance of which is underpinned by the architectural quality and layout of the village.
10. Insofar as it relates to these appeals, the significance of the listed building is evident in its largely unaltered architectural form as a curved terrace and its mostly symmetrical relationship with the adjacent terrace, No.s 21-22. Accordingly, the curved uninterrupted, tower-like rear elevation of the appeal property adds to the overall significance of the listed building, positively contributing to its architectural composition and allowing its original design to be appreciated. Internally, the property has been subject to significant alterations, which have eroded its original planform. Nevertheless, its arrangement of small cellular rooms, some focused around historical fireplaces, is still evident and provides a historical narrative as to the former layout and use of the property as two separate estate workers' cottages.

The appeal proposal

11. The appeal proposes the erection of a large three-storey extension to the rear of the property to accommodate a kitchen/dining room to the lower ground floor, a living room to the ground floor and a bedroom above. The extension would span across almost the entirety of the rear elevation of the existing three-story wing of the terrace. It would have a dual pitch roof with rear-facing gable elevation. Matching materials would be utilised including Cumbrian green slate and stone.
12. To gain access to the proposed extension, sections of the rear elevation would be removed at lower-ground and ground floor levels. This would include the removal of two rear-facing windows that would be repositioned to the southwest facing elevation of the extension to serve the extended living room. A partition wall would be repositioned internally, and the staircase modified to facilitate the enlargement of an upper floor bedroom. Rooflights are also proposed along with patio style doors to the ground and lower-ground floors.

The effect of the appeal proposal

13. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest it possesses. Section 72(1) of the Act also requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. I have therefore considered the appeal scheme in light of these weighty statutory duties.

14. The appeal proposal would significantly increase the overall footprint of the property and would essentially extend the building away from its historic core. Whilst attempting to replicate the scale and form of the opposing wing of the terrace and despite covering less than 50% of the rear yard area, the proposal would harmfully disrupt the sophisticated curved rear elevation of the building, diminish its tower-like composition, and intrude into its setting. The extension's gable elevation would be at odds with the general use of hipped roof features in the main building and the positioning of the eaves over that of the eaves of the main terrace would create an awkward juncture between the extension and the listed building.
15. As a result, the extension would appear as an overly assertive addition to the building that would undermine the listed building's original architectural integrity. This would erode the building's strong sense of symmetry as a part of the wider crescent and thereby diminishing its contribution to the architectural quality of the wider 18th century masterplanned estate village.
16. Internally, there would be a harmful loss of historic material to create openings in the rear elevation in order to gain access to the extension. This would create large rooms from the existing small cellular spaces and thereby contrary to the original planned design ethos of small internal rooms, which contribute to the special interest of the building. However, I have no objection to the proposed internal alterations to the staircase or the partition wall to the upper floor bedroom as these areas have already been subject to significant alteration and therefore are of little significance.
17. Furthermore, the appeal scheme's adverse effects also extend to the use of extensive glazing in the form of large Georgian style patio doors and windows which are at odds with the more restrained use of smaller windows and openings in the listed building. This would be a harmful deviation from the historic design of the listed building and one which would further undermine its historic character. In these terms the appeal scheme would constitute a discordant extension to the listed building and a clearly unsympathetic addition. The remains of a derelict structure to the rear of the building does not change my assessment in these regards. As a consequence, the appeal proposals would result in clear harm to the heritage asset and therefore I cannot agree that the proposal would restore the building in any way or enhance its setting.
18. The appellant asserts that the proposal would not be visible from the front of the building, nor from any other important vistas or focal points throughout the village. However, it would be visible in a number of private views to the rear, and in limited views from along the public highway which runs through the village. Nevertheless, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
19. It follows that if the special interest of a listed building within a conservation area is materially diminished, as a consequence the character and appearance of that conservation area as a whole is also similarly incrementally harmed. Therefore, as the proposal would undermine the architectural integrity of the listed building, and also disrupt views of the rear of the terrace, I also find it to be harmful to the character and appearance of the Lowther Conservation Area, by diminishing the historic and architectural qualities of a building that contributes positively to that area.

20. Taking these points together, I find that the proposal would fail to preserve the special architectural and historic interest of the Grade II* listed building, 23-26 Lowther Village, of which the appeal property forms a part. As a consequence, it would also fail to preserve or enhance the character or appearance of the Lowther Conservation Area. Accordingly, the proposal would not meet the weighty statutory duties set out by the Act and would conflict with Policies 06 and 07 of the LP which together seek to achieve design excellence in all development and seek to conserve and enhance the significance of heritage assets.

Character and appearance

21. The appeal site is located within both the Lake District National Park and the English Lake District World Heritage Site (WHS). The site's surrounding context is that of a planned estate village with an intrinsic rural setting on the eastern fringe of the national park.
22. 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.
23. The appeal site and its landscape setting have been heavily influenced by the changing agricultural activities of the Lowther Estate. Indeed, the appeal property is thought to have historically housed estate workers. Therefore, as an integral part of an architectural set-piece of a planned estate village, the appeal site makes a strong positive contribution to the character and appearance of the surrounding area. Consequently, it also makes an important contribution to the significance and OUV of this part of the WHS, owing to its architectural history and association with the surrounding agricultural landscape, which adds to the scenic beauty of the area.
24. For the reasons set out above, I have already found the proposal to be harmful to the character and appearance of the Lowther Conservation Area, therefore this would also equate to a degree of harm to the surrounding local landscape. As such, this would adversely affect the OUV and significance of the WHS, albeit to a limited degree.
25. To conclude on this main issue, the proposal would result in harm to the character and appearance of the surrounding area, with particular regard to the Lake District National Park and the English Lake District WHS. This would be contrary to Policies 01 and 02 of the LP which together require, among other things, that development be appropriate to the character of its location and that the extraordinary harmony and beauty of the landscape including attributes of Outstanding Universal Value is conserved.
26. The proposal would also conflict with the associated policies of the Framework, including those relating to the protection of valued landscapes. In addition, the proposal would 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 area⁴.

Living conditions

27. The residential gardens and yards to the rear of the terrace experience high levels of mutual overlooking which is primarily due to the low boundary walls which delineate these areas. Whilst the curved form of the terrace potentially reduces the levels of overlooking, it does not completely remove the ability for neighbours, or those using the lane to the rear, to gain extensive views of these garden/yard areas. Accordingly, there is limited, if any, privacy to the rear of the properties.
28. The proposal would introduce a southwest facing elevation with two windows at first floor serving a living area. These windows would overlook the neighbouring rear gardens and yard areas at No.s 25 and 24. However, given the existing lack of privacy to these rear areas, the proposal would not result in a significant loss of privacy. Furthermore, the splayed angle of the proposed extension, in relation to the curved elevation of the terrace, would, to a degree, limit views across these neighbouring rear yards.
29. I also note that this elevation would be stepped back from the shared boundary by a sufficient distance to ensure that an acceptable level of outlook was maintained for neighbouring residents. It could not therefore be described as an overbearing or oppressive form of development.
30. Consequently, the proposal would not have any harmful effects in relation to the living conditions of neighbouring occupiers, with regard to their privacy and outlook. Therefore, I find no conflict with the development plan or the Framework in this regard.

Other Matters

31. The appellant advises that they have found it difficult to engage in a constructive dialogue with the LPA over their proposals and they have concerns over the conduct of the LPA's site inspection. However, these essentially procedural matters are beyond my remit insofar as it relates to a consideration of the planning merits of the appeal. I also note the appellant's willingness to amend the scheme to overcome the LPA's concerns, but this would need to be resolved as part of a fresh proposal, which clearly falls outside the scope of this appeal.
32. I am advised that numerous approvals have been gained for the extension and alteration of other listed buildings within the village including modern rooflights and replica Georgian windows and doors of varying shapes and sizes. This has also included an approval for the construction of modern outbuildings, including two large garage blocks. However, I do not have the details of these other schemes before me and therefore I cannot be certain that they represent a direct comparison to the appeal proposal. Instead, I have considered the appeal on its own merits and reached my own conclusion.
33. I appreciate the appellant's desire to improve the internal space within their home and provide a more modern standard of accommodation. However, this matter does not justify the harm I have found to the listed building which is preserved in the public interest for its special architectural and historic interest.

⁴ Section 11 of the National Parks and Access to the Countryside Act 1949 (as amended)

Overall balance and conclusion

34. I have found the proposal to be harmful to the special interest of the Grade II* listed building and harmful to the character and appearance of the Lowther Conservation Area. It would also result in limited harm to the OUV of the WHS.
35. In accordance with paragraphs 201 and 202 of the Framework, it is for the decision maker, having identified harm to a designated heritage asset, to consider the magnitude of that harm. In this case, under the terms of the Framework, I consider the harm to the listed building, conservation area and the WHS to equate to 'less than substantial' harm, given the extent of the proposal and its localised effect. This level of harm is consistent with the appellant's own findings as set out in their statement of case. Under such circumstances, the Framework requires the harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
36. No public benefits are advanced in favour of the appeal proposal. From the submitted evidence it appears to me that the proposal would amount to only private benefit for the appellant and their family through the creation of additional living space within the property. Furthermore, there is no evidence to suggest that the optimum viable use of the property as a dwelling would cease in the event that the appeal was to fail, and the proposal not implemented.
37. The harmful effects to the heritage assets are considerations to which I attach great weight and importance, and their combined weight would not be outweighed by any demonstrable public benefits. For this reason, the proposal would be contrary to the Framework's aim to conserve heritage assets in a manner appropriate to their significance.
38. In conclusion, the proposal would fail to preserve the listed building and its special interest; would neither preserve nor enhance the character or appearance of the Lowther Conservation Area; would be harmful to the character and appearance of the surrounding area, with particular regard to the landscape of the Lake District National Park and WHS. In these regards, the proposal would conflict with the above cited policies of the development plan and the associated provisions of the Framework. There would be no harm to the living conditions of neighbouring occupiers, but this is of neutral consequence.
39. Moreover, with regard to appeal A, no material considerations have been advanced of a sufficient weight to justify a decision other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeals should be dismissed.

J M Tweddle

INSPECTOR