
Appeal Decisions

Inquiry held on 8, 9 & 10 March 2022

Site visit made on 11 March 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 7 April 2022

Appeal A Ref: APP/Q9495/C/21/3278733

Appeal B Ref: APP/Q9495/C/21/3278734

The Samling, Ambleside Road, WINDERMERE, LA23 1LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by The Samling against an enforcement notice issued by the Lake District National Park Authority.
- The notice, numbered E/2018/0213A, was issued on 28 May 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from use for the purposes of agriculture to use for recreation and leisure including pitch and putt golf in association with the adjacent hotel.
- The requirement of the notice is to permanently cease the use of the Land for recreation and leisure use including pitch and putt golf in association with the adjacent hotel and cease to mow pathways, fairways and greens.
- The period for compliance with the requirement is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C Ref: APP/Q9495/W/21/3278896

The Samling, Ambleside Road, WINDERMERE, LA23 1LR

- 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 The Samling against the decision of the Lake District National Park Authority.
- The application Ref 7/2020/5867, dated 29 December 2020, was refused by notice dated 29 March 2021.
- The development proposed is Retrospective Planning Application for change of use of field to ancillary use for adjacent hotel, installation of Pitch & Putt tees and greens, enlargement of an existing pond with associated landscaping works.

Appeal D Ref: APP/Q9495/C/21/3278735

Appeal E Ref: APP/Q9495/C/21/3278736

The Samling, Ambleside Road, WINDERMERE, LA23 1LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by The Samling against an enforcement notice issued by the Lake District National Park Authority.
 - The notice, numbered E/2018/0213B, was issued on 28 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the undertaking of operational development consisting of the following:
 - a) The formation of four golf greens
 - b) The formation of six gold tees
 - In the approximate positions marked on the attached Plan 2 and as shown on attached photographs 1 - 9.
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- The requirements of the notice are to: a) Remove the golf flags and putting cups from the greens., b) Remove the artificial turf, the base materials upon which it has been lain, and the surrounding timber framing, c) Restore the land to its former level as shown on drawing no. 4725-00-002 Rev A, d) Spread seed mix which contains 25% Strong Creeping Red Fescue, 15% Meadow Fescue, 8% Smooth Stalked Meadow Grass, 10% Hard Fescue, 2% Yellow Oatgrass, 15% Chewing Fescue, 6% Sheeps Fescue, 10% Tall Fescue, 5% Highland Bent, 4% Smaller Cats-Tails at a mix amount of 20 kilograms per hectare.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal F Ref: APP/Q9495/C/21/3278737

Appeal G Ref: APP/Q9495/C/21/3278738

Land to the northeast of The Samling, Ambleside Road, WINDERMERE, LA23 1LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by The Samling against an enforcement notice issued by the Lake District National Park Authority.
 - The notice, numbered E/2020/0212, was issued on 28 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the undertaking of building operations to erect three timber and fabric buildings each with timber veranda, balustrade and steps and without planning permission, the erection of a raised timber deck with a timber rope and post balustrade and timber stairs.
 - The requirements of the notice are to: a) demolish, dismantle and permanently remove from the Land the three timber and fabric buildings, timber veranda, balustrade and steps; b) Demolish, dismantle and permanently remove from the land the raised timber deck with timber rope and post balustrade and timber stairs.
 - The period for compliance with the requirements is 4 months.
 - Appeal F is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act
 - Appeal G is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeals A & B

1. It is directed that the enforcement notice is varied by: the deletion of 4 months and the substitution of 6 months as the period for compliance.
2. Subject to the variations, the enforcement notice is upheld.

Appeal C

3. The appeal is dismissed insofar as it related to the change of use of field to ancillary use for adjacent hotel, installation of Pitch & Putt tees and greens. The appeal is allowed insofar as it related to the pond and permission is granted for the enlargement of an existing pond with associated landscaping works at The Samling, WINDERMERE, LA23 1LR in accordance with the terms of the application, Ref 7/2020/5867, dated 29 December 2020, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following condition:

"Within two months of the date of this decision, details of the additional landscape attenuation bund around the pond, including cross-sections and

details of marginal planting and a programme for implementation shall be submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority."

Appeals D & E

4. It is directed that the enforcement notice is varied by the deletion of 4 months and the substitution of 6 months as the period for compliance.
5. Subject to the variations, the enforcement notice is upheld.

Appeals F & G

6. It is directed that the enforcement notice is varied by: the deletion of 4 months and the substitution of 6 months as the period for compliance.
7. Subject to the variations, the enforcement notice is upheld.

Preliminary Matters

8. The appeals were initially brought on the grounds as set out in the headers above but this changed during the course of the inquiry.
9. The appellants sought to formally include ground (f) in Appeals D and E, in line with the statement of case and evidence as submitted. I allowed this as doing so did not cause any injustice. The appellants also withdrew grounds (c) and (d) from Appeals A and B, and grounds (b), (c) and (d) from Appeals D and E (as confirmed in the statement of common ground and closing submissions).
10. The plans attached to the notices the subject of Appeals A, B, D show different areas of land. The plan attached to notice 2018/0213A shows the single large field to the south and south-east of The Samling building only, continuing to the boundaries with the Low Wood Hotel and A591. Plan 1 attached to notice 2018/2013B shows that same field in addition to the adjoining field further to the west which lies directly to the south of The Samling building. The location plan submitted with planning application 7/2020/5867 also shows the wider site. Evidence was presented in relation to both of these areas by both parties, and I will refer to the larger area (as shown on notice 2018/2013B and the planning application) as the Southern Appeal Site unless indicated otherwise.

Appeal site

11. The Samling is a hotel complex situated in an elevated position on the east shore of Windermere which forms part of a small estate comprising woodland and agricultural land. The main hotel building, Dove Nest, and a building within the garden, the arbour, are both Grade II listed buildings. The site lies within open countryside located in the Lake District National Park ('LDNP') and English Lake District World Heritage Site ('WHS'), and is therefore within both a nationally and internationally designated area in landscape terms. The National Planning Policy Framework 2021 requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues, and that the scale and extent of development should be limited.

12. National Parks have two purposes, both conservation and promoting opportunities for the understanding and enjoyment of the special qualities by the public, and there is a need to achieve a balance between these purposes. Where there is a conflict between these purposes, greater weight should be attached to the conservation purpose.
13. Appeals A, B, C, D & E relate to the Southern Appeal Site which is located within landscape character type M3 Lowland Valley: Lowland Rolling Farmland and within the 'Area of Distinctive Character' Area 39: Upper Windermere as defined in the Lake District National Park Landscape Character Assessment and Guidelines 2021 ('the LCA')
14. Appeals F and G relate to land referred to as the Northern Appeal Site which is situated further up the hillside to the north-east of the hotel buildings. It is located within landscape character type F Rugged/Craggy Volcanic High Fell (albeit on the outer edge where it joins with LCT M3) and is also within Area 39: Upper Windermere of the LCA.
15. It is accepted by the parties, and I agree, that the three Special Qualities of the LDNP which are also World Heritage attributes of Outstanding Universal Value ('the OUV'), and to which the sites directly contribute are:
 - 1) A world class cultural landscape;
 - 4) Unique farming heritage and concentration of common land (relevant for the Southern Appeal Site only); and
 - 13) Opportunities for quiet enjoyment (relevant for the Northern Appeal Site only) .
16. The appellant also argues that the development on both appeal sites would contribute to Special Quality 12, a long tradition of tourism and outdoor activities.
17. The parties agree that the contribution of the Windermere Valley to the OUV in part arises from the characteristic pattern of inbye fields, and the attractive mix of agriculture land with parkland and designed landscape.¹

Planning History

18. There is a fairly extensive planning history for the site which is set out in more detail in the statement of common ground. For the purposes of these appeals the most relevant elements are:
 - a) Planning application 7/2020/5867, dated 29 December 2020, which was refused by notice dated 29 March 2021;
 - b) Enforcement notice E/2018/0213A, issued on 26 May 2021;
 - c) Enforcement notice E/2018/0213B, issued on 28 May 2021; and
 - d) Enforcement notice E/2020/0212, issued on 28 May 2021.

¹ LCA, page 383

Appeal C – Section 78, Southern Appeal Site

19. The permission sought is for the change of use of field to ancillary use for adjacent hotel, installation of Pitch and Putt tees and greens, enlargement of an existing pond with associated landscaping works.
20. The proposed development is different to that as constructed and currently on site as it includes the replacement of the artificial grass on the tees and greens with natural grass, and additional planting around the pond area.
21. The Authority are satisfied with the drainage survey submitted by the appellant in support of the pond and do not therefore object to the granting of the permission for the enlarged pond with a condition to be attached to secure the associated landscaping plan. There is nothing before me to make me think otherwise. The enlargement of the pond with associated landscaping works does not cause harm in planning terms including in relation to the heritage assets and landscape, and I will therefore grant permission for these elements. I am satisfied that the proposed condition meets the statutory and policy tests as it ensures certainty and prevents any harm to the landscape.
22. The main issues in this appeal are the effect of the proposal on: i) the character and appearance of the area, the surrounding landscape and to the visual amenity of residents and visitors, including views from the surrounding public rights of way network; and ii) the heritage assets.

Landscape

23. The appellant's case regarding the effects on the landscape character of the development on the Southern Appeal Site (as set out by their landscape consultant) is that they would be of a negligible scale, across a limited extent with a Negligible magnitude of change and Minor neutral level of effect². His view is that the Southern Appeal Site would still be read as pastoral inbye land and that the change on the grass management on the site would have a very limited effect on its character.
24. It is clear, from the photographic and other evidence before me during the inquiry, that the character of the Southern Appeal Site was predominantly agricultural prior to the installation and use of the pitch and putt tees and greens, with sheep regularly grazing on it at various times before May 2015³.
25. The LCA Area 39 Distinctive Characteristics states that a 'Mix of deciduous woodland, parkland and pasture fields follows the lakeshore, interspersed with mature ornamental exotic tree' and a "Strong sense of openness at the lakeshore"⁴. As part of 'Local Distinctiveness and Sense of Place' the area is described as 'an attractive mix of agricultural land with parkland and designed landscapes associated with Victorian Villas constructed by the new industrialists along the lakeshore, each with associated formal gardens, mature planting (much of which is ornamental) and parkland.'⁵ The appellants' case is not that the Southern Appeal Site has ever been part of formal gardens associated with the hotel. Their landscape consultant's evidence was that with the

² Proof, para 3.6.10

³ The date that the appellant states the arrangement with the farmer came to an end.

⁴ LCA, page 382

⁵ LCA, page 383

development the character of the site would remain as inbye with parkland elements.

26. The existing boundary feature walls and fences will remain, and the proposal is that the artificial turf will be replaced with natural grass. Inbye land is enclosed pasture which was associated with the agricultural practice of bringing sheep down to graze from the high fell. It is self-evident that animals are not required to be grazing on land for it to remain as pasture, and indeed the parties accept that inbye can be used in different ways which do not all include the presence of livestock, (such as for the production of hay). Prior to the development, the Southern Appeal Site contributed to the Distinctive Characteristics as set out above through its landscape character as inbye pasture.
27. This type of agricultural use is very different from a recreational use (even at a moderate or low level) and the golf activity involves people congregating, even if those groups are generally small in size. The activity, with the associated paraphernalia including flags and equipment, would affect the openness of the site, notwithstanding that the field boundaries had not altered in location or form. The very presence of groups of people on the site will change its character, and draw attention to the development in its entirety, changing the viewer's perception of it.
28. The replacement of the artificial grass would reduce the visual impact but would not remove it entirely as is evident from the photographs submitted, and from my observations during the site visit. Grass cut to a variety of lengths, and used in different ways (i.e. more frequently stood on near the tees and greens) is very noticeable. The views from the A591 are fleeting or oblique but I do not accept that the views from the footpath and bridleway are only glimpsed, and as such minor or less and not significant.
29. The pitch and putt course, even with the natural grass, will be clearly visible from stretches of the footpath and bridleway, and the appellant's landscape consultant accepts that walkers are judged as being of High susceptibility and the visual receptor groups are judged as High-Medium sensitivity. I consider that the views of the tees and greens, which do appear unnaturally flat within the wider fields, and which will be visually prominent due to their different mowing regime and use, will no longer read as agricultural pasture. The development will therefore appear discordant and incongruous within the setting. It will no longer appear as inbye land which will materially harm the character and appearance of the area, and can be seen from many points in the wider vicinity by receptor groups of a High-Medium sensitivity. This harm to the landscape erodes the contribution that the site makes to the Special Qualities of the National Park and OUV
30. The appellants also argued that even if the nature of the Southern Appeal Site had changed so that it looked more like managed grassland this was entirely in keeping with the LCA, which recognises a mix of landscapes within the area. However, this cannot be the case as this would mean any change within those listed landscape types would be acceptable within the designated area which could quickly lead to a change in character of the area overall, and indeed loss of the actual variety if all changed to the same type.
31. I also accord little weight to the fact that the development is reversible as much development is in fact fully reversible (albeit some would require more

work) and the permission sought is permanent. It was also their case that the effects were localised, which maybe the case in terms of the landscape character of the wider Lake District or even LCA, but does not alter the fact that the effects of the development would be visible over a fairly large area as evidence by the photographs in the LVA and observations during the site visit.

Heritage

32. There are three designated heritage assets that need to be considered when determining whether to grant permission for the development on the Southern Appeal Site: the WHS and the Grade II listed buildings, Dove Nest and the harbour. In relation to the listed buildings, the decision-maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses⁶.
33. The significance of Dove Nest comes primarily from the architectural and artistic interest embodied in the physical fabric of the building. The setting of the building also contributes to its overall heritage significance which includes the formal terraces, garden and harbour as well as location and open land to the south allowing views to Lake Windermere (which includes the Southern Appeal Site).
34. The significance of the harbour arises in part from its historic interest and association with Felicia Hemans and William Wordsworth, and through its setting in terms of views across the Southern Appeal Site to the lake and in terms of its functional association with Dove Nest and its gardens.
35. The appellant's heritage witness gave evidence that the Southern Appeal Site only makes a very small contribution to the significance of these listed buildings through setting, and that the pitch and putt development would cause no harm to this significance. The Authority now accepts that the development on the Southern Appeal Site would cause no harm to the significance of Dove Nest or the harbour through changes to their setting and I have not been presented with any evidence to make me dispute this analysis.
36. The parties are in agreement that the inbye field pattern of the Southern Appeal Site provides part of the contribution of the Windermere Valley to the OUV. The Authority's view is that the proposed development on the Southern Appeal Site causes less than substantial harm to the WHS through the minor harm upon the OUV attributes.
37. As I have found landscape harm to the character and appearance of the Southern Appeal Site as set out above, it follows that there is harm to the OUV, in particular to the Special Qualities of the agro-pastoral land use system and world class cultural landscape. This harm is less than substantial in heritage terms and it is therefore necessary to consider whether there are public benefits which outweigh this harm.
38. The appellant's evidence is that the hotel did not specifically advertise the pitch and putt and that it was an enhancement of the hotel offer rather than producing its own tangible return. It is therefore unlikely to attract additional or new visitors to the area, although there could be commercial benefits in terms of repeat bookings which may help to sustain an existing rural business but these are of limited weight in terms of public benefit. There was no

⁶ Section 66(1), Planning (Listed Buildings and Conservation Areas) Act 1990.

evidence before me regarding the financial impact of the golf offer, or whether it contributed to longer stays, although it was accepted by the Authority that bookings have been made this summer to include that provision. I accept that there could be some reduction in travel by car through the co-location of activities, but as the appellants' evidence is that the pitch and putt would not normally take more than a few hours at most, the weight that can be given to it is limited.

39. In accordance with caselaw, I have taken into account that the harm is on the lower scale of the spectrum but the Framework requires that, when considering the impact of a proposed development on the significance of a designated asset, great weight shall be given to the asset's conservation. In this case, the great weight that must be accorded to the conservation of the WHS, an extremely important asset in heritage terms, is not outweighed by the public benefits as outlined above.
40. These same public benefits need to be considered against the harm caused by the development on the character and appearance of the area and the surrounding landscape, and likewise do not outweigh this harm.

Conclusion

41. The change of use of field to ancillary use for adjacent hotel and installation of Pitch and Putt tees and greens, causes harm to the character and appearance of the area, the surrounding landscape and to the visual amenity of residents and visitors, including views from the surrounding public rights of way network; and as a result the WHS. This development is therefore contrary to Policies 01(National and International significance of the Lake District), 02 (Spatial Strategy) and 05 (Protecting the spectacular landscape) which seek, amongst other things, to conserve and enhance the Lake District landscape; 06 (Design and development) which in part aims to reinforce the importance of local character; and 07 (Historic Environment) which seeks to conserve and enhance the significance of heritage assets including views of the historic environment. The harm caused by the development is therefore also in conflict with the Framework which requires that great weight should be given to conserving and enhancing landscape and scenic beauty within the National Park.
42. In the absence of any other considerations to outweigh this conflict, Appeal C fails in part and permission is not granted for the change of use of field to ancillary use for adjacent hotel and installation of Pitch and Putt tees and greens, although is granted for the enlargement of an existing pond with associated landscaping works.
43. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Appeal F & G – Section 174, ground (a) and the deemed application for permission

44. The deemed application for permission is for three timber and fabric buildings each with timber veranda, balustrade and steps and a raised timber deck with a timber rope and post balustrade and timber stairs. The materials would be altered from those currently seen on site, and the parties agree that the timber would be stained dark brown and the fabric used would be a dark green colour (as secured by condition).

45. The main issues are the same as in relation to Appeal C, namely the effect of the proposal on: i) the character and appearance of the area, the surrounding landscape and to the visual amenity of residents and visitors, including views from the surrounding public rights of way network; and ii) the heritage assets.

Landscape

46. The appellants' case, as set out by their landscape consultant, is that the effects to landscape character arising from the three tents, associated timber veranda and raised deck would be highly localised, and the overall effects on landscape character would be of a negligible scale, across a localised extent and would result in a Negligible magnitude of change and Minor level of effect in the context of the immediate surrounding area. In addition, the potential visibility of the tents would be limited to glimpsed views on a seasonal basis from the bridleway to the north, a public footpath southeast of the site and fleeting glimpsed views from the A591 adjoining the entrance to The Samling. They conclude that the overall the visual effects would be Minor and not significant, although they do accept that there would be an adverse impact on the landscape and visual receptors, albeit very limited.
47. The Northern Appeal Site is close to the boundary of the Landscape Character Types M Lowland Valley and F Rugged Volcanic Fell, and it is located much further away from the road and lakeside below, with few other buildings in the vicinity at that level. It adjoins a wooded area on one side and has open views to the lake, fields, road and the Low Wood Hotel below. It therefore has a different perceptual and experiential quality to the Southern Appeal Site and other parts of the hotel complex, and whilst not completely silent, and still influenced by the busier areas below, it does have more of a feeling of tranquillity, and the experience of a transition to the more rugged fells above. The appellant's landscape witness accepted that it is isolated, although not above the moorland line, and that it was more tranquil than the Southern Appeal Site.
48. From the photographic and other evidence submitted, and my own observations during the site visit, I do not find the views of the tents from the identified visual receptors to be only glimpsed. The proposed green and brown colours will reduce the visibility but the development will still be evident from the road, footpath and bridleway, although clearly more so at different times of the year depending on season, weather and leaf cover. In addition, whilst the appellant's case is that the assessment had taken into account the actual use of the tents, there was no direct evidence regarding what effects the presence of around 6 people with associated paraphernalia including lighting, firepit and furniture would have on the landscape character or visual receptors. The appellants' evidence dealt with the physical elements of the development itself, the tents and decking, but it did not explain in any detail the effect of the activity.
49. The site is set below the bridleway, and the peaks of the tents are visible for relatively short stretches of it overall. On a factual basis, it was evident from the site visit that there were also some views of the decked area from the bridleway above, which was not the evidence presented at the inquiry. Whilst this was a brief view in terms of a dynamic receptor moving along the pathway, it was an unobstructed view of most of the decking which is where the lounge furniture would be situated, and where it would be expected that the occupants

would mostly congregate during dry weather. This would be a wholly unexpected view to come across when on the bridleway, as the landscape character is fairly tranquil in nature, and it would appear out of place within the otherwise mostly natural environment.

50. Whether any noise from the development would be perceived would clearly depend on how much noise was being made, but given the clear view of the decking I think it highly likely that people using it would be heard. The exact number of vehicle movements would also depend on the requirements of the guest, but the lowest estimate based on the appellants' evidence would be around 5 trips a day. Rural businesses use motor vehicles also, but probably not as frequently in that location, so that the development would introduce additional vehicle noise at level which would again be unexpected at that distance from the road next to the lake, although generally short-lived in duration.
51. The views of the tents from footpath and road would also be affected by the actual activity and presence of people. Whilst the operational development itself would only have limited visibility, this would not be the case when occupied, and the eye would be drawn to the movement and people with a resulting change in the character of the landscape, and deterioration in the existing views which together would have a moderate adverse impact and cause harm to the landscape. The tents, when in use, would appear incongruous and discordant within the high quality scenic landscape and cause material harm.
52. The development would result in a change in character of the site, and cause material harm to views over a fairly wide area and from a number of locations. I accept the appellant's case that the change is localised when considering the whole of the National Park or WHS, but that does not limit the impact and effect within the more immediate vicinity of the site within this part of Upper Windermere.
53. The appellants also argue that the development on the Northern Appeal Site would be reversible and seasonal. This may well be the case, but the permission sought is permanent and to be operational between the end of March and end of October each year. This is no doubt the busiest time of the year in terms of all visitors to the area generally so that the level of harm is not greatly reduced by the seasonality.
54. The Northern Appeal Site contributes to the Special Qualities of the National Park in that it affords opportunities for quiet enjoyment, and the development would cause harm to that opportunity for the users of the bridleway in particular. The development would afford a new opportunity for such to the occupiers of the tents but only by degrading the existing experience already available to others from public spaces, and the statutory duty provides that where there is conflict with the aim to promote opportunities for the understanding and enjoyment of the special qualities, greater weight should be attached to the conservation purpose of the National Park.
55. The appellant also argues that the development would contribute towards the long tradition of tourism and outdoor activity. Whilst I do accept that to be the case, in general terms, it would be in direct conflict with the other special qualities which in this case outweigh any such benefit. Indeed, the wording of Special Quality 12, and the elements of it which also form part of the OUV, do

not specifically refer to camping, but do emphasise the importance of the 'unrestricted access to the fells together with an historical network of roads, footpaths and tracks' and the 'viewing stations' (which both parties accepted would have been publicly accessible). The development does therefore accord in the broadest brush terms with this special quality, but not in the finer detail or in a way which can overcome the harm it causes to the opportunities for quiet enjoyment elsewhere.

Heritage

56. It is not the Authority's case that the development on the Northern Appeal Site caused harm to Dove Nest or the harbour but they do consider it would cause less than substantial harm to the OUV of the WHS. The appellant's case is that the proposal sustains the Special Qualities of the WHS and enable its OUV to be better appreciated. They argue that the tent development positively contribute to the Special Qualities by sustaining the long tradition of tourism and outdoor activities; providing the opportunity for quiet enjoyment of the landscape in an area of previously unused, private land; and facilitating a spectacular vista of Lake Windermere. The appellants argue that the tents may result in people coming to the area who have never been before and for that sole purpose, and that images may appear on social media which would in itself enable the OUV to be better appreciated.
57. The tents do provide additional accommodation in a previously unused spot, and so will increase the opportunities for people to visit the area and enjoy the views and the OUV. However, the openness of the Northern Appeal Site facilitates views from the bridleway, and for the reasons as set out above, I have found that the development causes harm to the landscape which is contrary to the Local Plan and National Park. It must therefore follow that some harm is also caused to the OUV as set out above.
58. I therefore find that the development on the Northern Appeal Site causes less than substantial harm to the OUV. The benefits of the development identified by the appellants include the provision of an enhanced experience which is of a commercial and goodwill benefit to the hotel which would help in revenue generation, and help to deliver a prosperous economy. In addition, I acknowledge the related public benefits of the potential attraction of new visitors to the area and co-location of attractions which could reduce the need to travel by car once in the area.
59. Whilst there are clearly some public elements to all of these benefits, they are limited, in part due to the small scale of the development and therefore numbers of visitors involved. The limited occupancy of the tents also reduces the weight that can be given to it in terms of a public benefit as compared to a purely commercial benefit for the hotel.
60. I agree with the parties that the harm is minor but the Framework requires that, when considering the impact of a proposed development on the significance of a designated asset, great weight shall be given to the asset's conservation. In this case, the great weight that must be accorded to the conservation of the WHS, an extremely important asset in heritage terms, is not outweighed by the limited public benefits as outlined above.

Conclusion

61. The development causes harm to the character and appearance of the area, the surrounding landscape and to the visual amenity of residents and visitors, including views from the surrounding public rights of way network; and as a result the WHS. This development is therefore contrary to Policies 01 (National and International significance of the Lake District), 05 (Protecting the spectacular landscape), 06 (Design and development) and 07 (Historic Environment). The harm caused by the development is therefore also in conflict with the Framework which requires that great weight should be given to conserving and enhancing landscape and scenic beauty within the National Park.
62. In the absence of any other considerations to outweigh this conflict, Appeals F and G fail and permission is not granted for the building operations to erect three timber and fabric buildings each with timber veranda, balustrade and steps and without planning permission, the erection of a raised timber deck with a timber rope and post balustrade and timber stairs.

Appeals D & E – Section 174 ground (f)

63. An appeal on ground (f) is on the basis that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
64. The appellants' witnesses all accepted that the ground levels have changed to some extent, and this was also evident from my observations during the site visit. The purpose of the notice relating to the operation development on the Southern Appeal Site was to remedy the breach of planning control and it is therefore not excessive to require that the original levels are restored. It is also not excessive to require that the regraded land is spread with the specified seed mix to ensure that the relevant areas of land are quickly returned to their previous condition, and with a grass appropriate to the area.
65. The appeals on ground (f) therefore fail.

Appeals A, B, D, E, F & G – Section 174 ground (g)

66. The appellant requested that the compliance period on the notices be extended by 2 months (to 6 months), and the Authority do not object to this. I agree that in light of existing bookings of both the main hotel and the tents, and in terms of the goodwill associated and contribution to a prosperous local economy, the period of 6 months is proportionate in all of the circumstances and that the notices should be varied in this way.

Zoë Franks

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/Q9495/C/21/3278733	Mr Peter Danson
Appeal B	APP/Q9495/C/21/3278734	Mr Oliver Smith
Appeal C	APP/Q9495/W/21/3278896	Mr Peter Danson
Appeal D	APP/Q9495/C/21/3278735	Mr Peter Danson
Appeal E	APP/Q9495/C/21/3278736	Mr Oliver Smith
Appeal F	APP/Q9495/C/21/3278737	Mr Oliver Smith
Appeal G	APP/Q9495/C/21/3278738	Mr Peter Danson

APPEARANCES

FOR THE APPELLANT:

Piers Riley-Smith

Of Counsel

He called

Peter Danson

Appellant

Ken Halliday, BSc
(Hons) MPhil CMLI

Stephenson Halliday

Gail Stoten, BA (Hons),
MCIfA, FSA

Pegasus Planning Group

John Jowitt, BSc (Hons),
DIPTP, MRTPI

PJ Planning

FOR THE LOCAL PLANNING AUTHORITY:

Rebecca Clutten

Of Counsel

She called

Neill Whittaker, BSc
(Hons), MA, MRTPI

Ivy Legal Limited

DOCUMENTS

- a) Opening submissions on behalf of the appellants
- b) Opening submissions on behalf of the Authority
- c) Closing submissions on behalf of the Authority
- d) Closing submissions on behalf of the appellants