The Planning Inspectorate

Appeal Decisions

Site visit made on 16 August 2022

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2022

Appeals A and B Refs: APP/Q9495/C/21/3288063 & 3288064
Land to the west of Garr Lane, Torver, Coniston

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Matthew Mayvers (Appeal A) and Mrs Frances Mayvers (Appeal B) against an enforcement notice issued by the Lake District National Park Authority.
- The enforcement notice, numbered E/2021/0208A, was issued on 3 November 2021.
- The breach of planning control as alleged in the notice is, without planning permission, the making of a material change of use of the Land from use for agriculture to use for tented camping, the parking of vehicles and the siting of holiday caravans.
- The requirements of the notice are to discontinue the use of the land for tented camping, the parking of vehicles and the siting of holiday caravans.
- The period for compliance with the requirements is one month.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (c) and (d) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period in relation to Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Appeals C and D Refs: APP/Q9495/C/21/3288066 & 3288067
Land to the west of Garr Lane, Torver, Coniston

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Matthew Mayvers (Appeal C) and Mrs Frances Mayvers (Appeal D) against an enforcement notice issued by the Lake District National Park Authority.
- The enforcement notice, numbered E/2021/0208B, was issued on 3 November 2021.
- The breach of planning control as alleged in the notice is, without planning permission, operational development on the Land comprising of:
  a) The formation of a track and parking hardstanding;
  b) The erection of an amenity building, with a covered deck area;
  c) The installation of a water tap stand, and
  d) The installation of two electric hook up points.
- The requirements of the notice are:
  a) Remove the track and parking hardstanding from the Land;
  b) Remove the amenity building, with covered deck area from the Land;
  c) Remove the two electric hook up points and any associated cabling from the Land
  d) Remove the water tap and associated piping from the land
  e) Remove all items, materials and debris from the Land affected arising from compliance with requirements (a) to (d) above, and
  f) Restore the Land to its former level and condition before the development took place.
- The period for compliance with the requirements is two months.

- Appeal C is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period in relation to Appeal D, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary Decisions: Appeals A and B are dismissed and the enforcement notice is upheld. Appeals C and D are also dismissed and the enforcement notice is upheld.

Procedural Matters

1. A considerable number of representations have been received in connection with these appeals, some in support of the developments that have taken place and some in objection to them. I have taken all representations into account. The appellants make the valid point that some of the representations from individuals within the same household are repeated. However, it is not the quantity of the representations received that is important: it is the relevance and merits of the points made to which I attach the relevant weight.

2. The Lake District National Park Authority (Authority) indicates that it has received further evidence of the use alleged in the notice E/2021/0208A from a member of the public as part of its enforcement investigation. The Authority goes on to explain that this evidence was submitted in confidence, and for that reason are unable to share all that information as part of its Statement of Case. The Authority then indicates that it has reached an agreement (presumably with the individual who supplied that evidence) to share it with the Planning Inspectorate in confidence.

3. Accepting that evidence in confidence would deny the appellants the opportunity to respond to the points raised and would be a fundamental breach of the principle of fairness on which the Planning Inspectorate operates. I can confirm that I have not requested sight of that evidence and have not seen it. I have also disregarded what appears to be a summary of that evidence at paragraphs 3.8 and 3.9 of the Authority's Statement of Case on the basis that I have no means of establishing the veracity of that evidence.

4. The two enforcement notices subject these appeals, numbered E/2021/0208A and E/2021/0208B, allege a material change of use of the land and the carrying out of operational development respectively. The appeals against those notices have been automatically allocated reference numbers according to the order in which they were submitted. However, for reasons that will become apparent, it is logical to consider the appeals made on ground (c) as it relates to Appeals C and D in the first instance.

Appeals C and D: the appeals on ground (c)

5. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. An appeal is this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellants to show, on the balance of probability, that the matters alleged in the notice do not constitute a breach of planning control.

6. There are several elements to this ground of appeal. It is convenient to consider each element separately in the first instance before reaching a conclusion on this ground of appeal as a whole.

The track and parking hardstanding

7. The appellants explain that a track which runs through the appeal site and which serves a woodstore has been on the site and used in connection with the Wilson Arms public house for in excess of 30 years. The appellants maintain that they have simply improved the surface of the track to ensure that vehicles do not get stuck in adverse conditions. On that basis, the appellants contend that the works that have been undertaken do not amount to development and therefore a breach of planning control has not occurred.

8. The Authority has provided photographs taken as part of an enforcement investigation undertaken in or around May 2013 which clearly show the track as it existed on that date. Close examination of that photograph reveals that the track is a narrow, pedestrian footpath made with loose slate chippings.

9. By comparison, the track subject to the notice is significantly wider, wide enough to accommodate a vehicle. I also noted at my site visit that the surface was compacted. In my view, as a matter of fact and degree, the track subject to the notice goes beyond a simple improvement of the previous track. It is an entirely new undertaking.

10. The meaning of development for the purposes of the 1990 Act is defined at Section 55(1) of that Act as meaning:

…the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land.

11. The courts have held that engineering operations for the purposes of section 55(1) involve works with some element of preplanning, which would generally be supervised by a person with engineering knowledge. It is not necessary for the operations to actually be so supervised in any particular case, meaning that the appellants or person who carried out the work does not have to be an engineer. In my view, the laying of the track subject to the notice falls squarely within that description and therefore constitutes an engineering operation. The same applies to the parking hardstanding.

12. An engineering operation constitutes development for the purposes of section 55(1) of the 1990 Act. Section 57(1) of that Act provides that planning permission is required for development. It follows that both the track and the parking hardstanding require planning permission. The appellants do not contend that the track and/or parking hardstanding have deemed planning permission under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), and no express planning permission has been granted for either.

The amenity building and covered deck area

13. As the appellants point out, the 'amenity building' referred to in the notice is actually a shipping container which has been fitted out to provide amenity facilities for campers. Nonetheless, it is necessary to go back to the definition a building as established by the courts.

14. The courts have identified three primary factors as being decisive of what was a building: (a) size; (b) permanence and (c) physical attachment. The Encyclopaedia of Planning Law and Practice indicates that this last factor may in itself be inconclusive but may tilt the balance when weighed with other factors. It is helpful to assess the 'amenity building' against those three factors.

15. The container is of a size that could not reasonably be described as being *de minimis*. The container is not itself physically attached to the ground but rests on piles of bricks. The appellants contend that the container is moveable but, whilst that may technically be true, I am not persuaded that in practice that is the case. The toilets, showers and sinks appear to be plumbed in and the container is in part adjoined by the covered decking. It seemed to me that the latter would have to be removed first in order to then move the container. The whole ensemble therefore has a degree of permanence about it, which is evidenced by the fact that it has been in place since 24 June 2021 and was in still in situ (and was in use) at the time of my site visit.

16. I therefore conclude that, as a matter of fact and degree, that the container does constitute a building. The approach of the courts in construing the definitions in section 55(1) has been to ask first whether what has been done has resulted in the erection of a 'building': if so, the court should want a great deal of persuading that the erection of it had not amounted to a building or other operation. Adopting that approach, I conclude that the installation of the container and decking constitutes a building operation and, as such, constitutes development for the purposes of section 55(1) of the 1990 Act.

17. The appellants maintain that the amenity building is permitted development but do not state which Class and/or Part of the GPDO grants that deemed permission. The Authority helpfully points me to Class A, Part 4, Schedule 2 of GPDO, which allows the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

18. Development is only permitted by Class A if required temporarily in connection with and for the duration of operations being or to be carried out on the land. The key word there is 'operations'. It is clear from the definition in section 55(1) that there are two limbs to development: operational development and material changes of use. A material change of use, such as for a campsite or caravan site, therefore cannot constate 'operations' for the purposes of Class A. I have not been made aware of any operations taking place on the land with which the amenity building and decking could be used in connection with. It follows that the amenity building and decking do not comprise permitted development under Class A, Part 4, Schedule 2 of the GPDO or, as far as I am aware, any other provision within the GPDO.

The water tap stand

19. The water tap stand is a relatively small structure. However, it is firmly affixed to the ground and has a degree of permanence about it. In that context, I am mindful that the term 'permanence' does not necessarily connote forever or indefinitely. In weighing the three factors of size, permanence and physical attachment, the courts have held that no one factor is decisive. In the case of the water tap stand, I attach greater weight to the fact that it is physically

attached to the ground and the degree of permanence than I do to its relatively small size. I therefore conclude that, as a matter of fact and degree, the installation of it does constitute a building or other operation, and is therefore development for the purposes of section 55(1) of the 1990 Act.

The two electric hook up points

20. I reach a similar conclusion in relation to the two electric hook up points. Both are relatively small structures but both are physically attached to the ground and exhibit a degree of permanence: one local resident indicates they were installed in or around September 2021, and they were still in situ on the date of my site visit. The appellants have not challenged that evidence. Again, I attach greater weight to the fact that they are physically attached to the ground and the degree of permanence than I do to their relatively small size. I therefore conclude that, as a matter of fact and degree, the two electric hook up points constitute a building or other operation, and are therefore development for the purposes of section 55(1) of the 1990 Act.

Conclusion on ground (c)

21. I find that all the matters stated in the notice constitute development for the purposes of Section 55(1) of the 1990 Act, such that planning permission is required for them. There is no planning permission in place, deemed or otherwise, for the development alleged in the notice. I therefore conclude that, on the balance of probability, the matters stated in the notice do constitute a breach of planning control.

22. Accordingly, the appeals on ground (c) fail.

Appeals A and B: the appeals on ground (c)

23. Class B, Part4, Schedule 2 of the GPDO permits the use[1] of any land for any purpose for not more than 28 days in total in any calendar year and the provision on the land of any moveable building or structure for the purposes of the permitted use. Class B.1. provides that development is not permitted by Class B if the use of the land is for a caravan site.

24. In August 2020, the provisions of Class B were supplanted through the addition of Part BA which permitted the use of any land, in addition to that permitted by Class B of Part 4 of Schedule 2, for any purposes for not more than 28 days in total during the relevant period. The "relevant period" for Class BA ran between 1 January 2021 and 31st December 2021, and the permitted use was subject to the same restrictions as Class B. The insertion of Class BA therefore meant that a temporary use of land (but not as a caravan site) was permitted for a total of 56 days during the relevant period.

25. The appellants maintain that the use of the land for tented camping did not take place for more than 56 days and therefore was permitted under Class BA. The appellants also maintain that the parking of vehicles was ancillary to that use, and as such did not require planning permission. The appellants accept that the siting of holiday caravans did occur but consider that was *de minimis* and did not amount to development requiring planning permission. In support of their position, the appellants provide a record of the bookings for the campsite, which record camping taking place on a total of 40 days.

[1] With certain exceptions.

26. That evidence is shown to be manifestly untrue by the evidence of the local residents. One photograph, provided under cover of an email dated 7 June 2021, clearly shows a steam rally taking place on the land. I gather from the separate evidence of a local resident that this steam rally took place on the weekend of 24/25 April 2021. The photograph shows a number of tents pitched on the land. The same resident refers to use of the land for camping on the weekend of 29/30 May 2021, and on 20 September 2021. All of these dates are outside of the period covered by the appellants record of camping, which spans the period from 9 July 2021 to 11 September 2021.

27. Other local residents similarly make reference to camping taking place outside of the period claimed by the appellants. One resident corroborates that camping taking place on 24 April 2021, believing this to be a stag party, and indicates that there were campervans staying in October 2021. I note that this resident specifically refers to campervans, not tented accommodation.

28. This evidence completely undermines the claim made by the appellants that the use took place on only 40 days. It is not possible to discern from the evidence provided by local residents whether or not the number of days that the land was used for camping exceeded 56 days in the relevant period. Nevertheless, in the light of that evidence, I am not able to place any reliance whatsoever on the record of bookings provided by the appellants.

29. Photographs provided by the Authority show clearly motorhomes on the land. I recognise that these photographs show a restricted view and do not cover the whole of the site. Some are undated and some were taken after the enforcement notice was issued. That reduces the weight that I can give to this evidence. Nonetheless, the point that I take from these photographs is that they show motorhomes stationed on the land completely separate from, independent of and not associated with any tented accommodation. That immediately casts doubt on the appellants' claims that the stationing of any motorhomes was ancillary to the tented accommodation. Moreover, the number of motorhomes stationed on the land and the number of separate occasions when motorhomes were present goes beyond what may reasonably be termed as being a *de minimis.*

30. In that context, I am also mindful that the electric hook up points are a facility that is more usually associated with motorhomes than tented accommodation. To my mind, the provision of electric hook up points is therefore more likely to be an indication of use of the land for the stationing of motorhomes than for tented accommodation. The location of the electric hook up points directly adjacent to the track reinforces my views in that regard.

31. The significance of this evidence is that Class BA.1, Part 4, Schedule 2 of the GPDO expressly provides that development is not permitted by Class BA if the use of the land is for a caravan site. The definition of a caravan includes any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and *any motor vehicle so designed or adapted* (my emphasis). That, right there, means that the use of the land for the stationing of motorhomes, as clearly shown on the photographs, constitutes a caravan site (in part at least) and therefore cannot be permitted development under Class BA, Part 4, Schedule 2 of the GPDO.

32. Furthermore, the development permitted by Class BA includes provision on the land of any *moveable* structure for the purposes of the permitted use (emphasis added). It is not entirely clear from the evidence before me whether the track was constructed specifically for the purposes of a temporary use permitted by Class BA (i.e. tented accommodation). There is some evidence that the track was constructed in April 2021, which would be consistent with the first reported camping use in that same month. Nevertheless, I will disregard the track for present purposes. I consider that the electric hook up points are more usually associated with the stationing of motorhomes than tented accommodation, and will therefore disregard those also.

33. However, the same cannot be said of the amenity building and the water tap stand. Both are clearly intended to facilitate the use of the site for tented camping, and both were specifically installed for that purpose. I have already found that both have a degree of permanence about them. For that reason. neither can be considered a moveable structure. The provision of these facilities therefore takes the use outside the use permitted by Class BA, Part 4, Schedule 2 of the GPDO, such that the use requires express planning permission.

34. I therefore conclude that, on the balance of probability, the matters stated in the notice do constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

Appeals A and B: the appeals on ground (d)

35. The appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. In order to succeed on this ground, the appellants must show that the use had been continuous for a period of ten years beginning with the date of the breach. The test in this regard is the balance of probability and the burden of proof is on the appellants.

36. This ground of appeal may be taken quite shortly. I have seen reference in the representations received to a meeting convened by the appellants for the purpose of informing local residents of their *intention* to use the land as a campsite (my emphasis). That meeting was held on 25 June 2021. It follows from the above that the use must have fully commenced at some point after that meeting, albeit there appears to have been sporadic use for tented accommodation in the months leading up that meeting. There is compelling evidence before me to show that, prior to that date, the land was used for agriculture.

37. The corollary is that the date of the breach substantially occurred after 25 June 2021. Alternatively, at the earliest, the use commenced in April 2021, that being the date of the earliest photographic record of tented accommodation on the land. Either way, the use alleged in the notice could therefore not possibly have been taking place continuously for a period of ten years prior to the date of the breach.

38. The appellants make the point that the notice was issued at a time when the use alleged was not taking place. That does not alter the test required under

ground (d). Indeed, if anything, it tends to suggest that the use was not continuous and that an appeal on ground (d) could never have succeeded.

39. The appellants have failed to discharge the burden of proof that falls upon them on this ground of appeal. I therefore conclude that, on the balance of probability, the Authority was in a position to take enforcement action on the date on which the notice was issued. Accordingly, the appeals on ground (d) fail.

Appeal A: the appeal on ground (a) and the deemed planning application

40. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Authority has stated two substantive reasons for issuing the enforcement notice, from which the main issues are raised are:

- whether the use conserves and enhances the landscape and scenic beauty of the Lake District National Park, and the significance of the English Lake District Heritage Site, and
- the effect of the use on the living conditions of the occupiers of the adjoining residential properties, specifically in relation noise pollution, light pollution and loss of privacy.

Whether the use conserves and enhances the landscape and scenic beauty of the Lake District National Park, and the significance of the English Lake District Heritage Site

41. Before considering this main issue, it is first necessary to establish the baseline against which that assessment must be made. At the time of my site visit, there were a number of buildings/structures on the adjoining land which either are known not to have the benefit of planning permission and which are either currently under investigation by the Authority or are subject of an enforcement notice in relation to which an appeal has been lodged[2].

42. In summary, these include the issue of an enforcement notice in relation to the positioning of four shepherds huts, the erection of a marquee, the use of land as a seating and play area in association with the Wilson Arms public house, and in relation to various operational developments, including the formation of a track and hardstanding, lighting columns and hot tubs. Those are the subject of separate appeals which are outstanding at this time. I also noted that an enclosure has been erected at the western end of the track subject to Appeal C which, as far as I am aware, does not have the benefit of planning permission and in relation to which I have no further information.

43. I do not make any comment on the planning merits of the above developments. Nevertheless, their physical presence invariably effects the character and appearance of the surrounding area. I recognise that the four shepherds huts have previously been granted planning permission and it is only the siting of those units that is currently in dispute. The general bulk and appearance of those units is therefore a permitted feature in the landscape and I have taken that into account. However, given that the other elements referred to above do not have the benefit of planning permission, I must

[2] The appeals against those enforcement notices are not before me.

disregard their effect on the character and appearance of the wider site in considering the matter that is before me.

44. The appeal site is within the Broughton and Torver Area of Distinctive Character as defined in the Authority's Landscape Character Supplementary Planning Document. The distinctive attributes of this character area include the network of pastoral fields with rocky knolls delineated by hedgerows and slate stone walls and the small patches of deciduous woodlands which frame surrounding fields. The significance of the English Lake District Heritage Site is, in my view, the unique and exceptional quality of its landscape.

45. The southern boundary of the site adjoins a line of residential properties, and the domestic character of those dwellings does of course exert an influence on the current appeal site. However, the character of the appeal site itself is mostly derived from the open land to the north and the longer views towards the woodland on the escarpment beyond. This exerts a strong rural character and appearance to the site and surroundings. The stone walls dividing pastoral fields and paddocks adds to that rural character, and are typical of the defining characteristics of the Broughton and Torver Area of Distinctive Character within which the site lies. In my view, this is a landscape of high quality and value, fully commensurate with the local designation.

46. In allowing an appeal for a family glamping pod on the site operated by the Wilson Arms (APP/Q9495/W/21/3270266), the Inspector considered that the paddock forms a transition between the built form of the settlement and the wider countryside setting. I accept that to some extent the walls do create in a sense of containment, but in my view the paddock subject this appeal shares many of the characteristics of the surrounding rural landscape and exhibits none of the characteristics of the domesticated character of the line of dwellings that adjoins the land. Consequently, although the adjoining line of dwellings does exert an influence on the appeal site, I take the view that paddock and the dwellings are different entities with totally different characteristics. For that reason, I do not consider that the paddock to which the notice relates does form a transition between the built form of the settlement and the wider countryside setting. Rather, it forms part of the latter.

47. There were no tents, parked vehicles or motorhomes (holiday caravans) on the site at the time of my site visit. Nevertheless, by its very nature, the use of the site for tented accommodation, with a plethora of colourful tents and the associated activity, is wholly out of character with distinctive qualities of the appeal site and surroundings. Similarly, the stationing of motorhomes is incongruous in this location, given the size, bulk and appearance of those vehicles and the levels of activity associated with them.

48. The notice alleges the parking of vehicles. The notice implies a mixed use of the land but does not actually specify that the parking of vehicles alleged is in association with the tented accommodation and the holiday caravans. It therefore follows that should I grant planning permission on the application deemed to have been made, I would be granting planning permission for the parking of vehicles as a separate use of the land, not related to the other uses alleged in the notice. That could include parking in association with the Wilson Arms public house, or even parking unrelated to the appeal site. Even if the parking was part of a mixed use involving tented accommodation and holiday

caravans, the parking element could evolve to become the major element of that mixed use. Moreover, the deemed permission would relate to *vehicles* in general and not just domestic cars (my emphasis).

49. The parking of vehicles on any scale is a wholly incongruous use in this rural location, and extremely harmful to this high-quality landscape. I recognise that the area of the site in which the parking of vehicles took place could be controlled by the imposition of a condition(s), but even on a small scale the harm to the rural character of the appeal site would be significant.

50. I conclude that the use alleged in the notice fails to conserve or enhance the landscape and scenic beauty of the Lake District National Park, and harms the significance of the English Lake District Heritage Site. I therefore conclude that the breach of planning control is contrary to policies 01, 02, 05, 06, 07 and 18 of Lake District National Park Local Plan 2020-2035 (Local Plan) which, amongst other things, seek conserve and enhance the extraordinary beauty and harmony of the Lake District landscape, to ensure that the highest level of protection is given to that landscape and that camping and caravan sites are consistent with the landscape character.

51. For the same reasons, the use fails to accord with paragraph 176 of the National Planning Policy Framework (Framework), in that it fails to conserve and enhance the landscape and scenic beauty of the National Park. In accordance with paragraph 176, that is a matter to which I attach great weight.

Living conditions

52. A number of the residents refer to the impact of the use of the land for tented accommodation and holiday caravans, particularly in terms of loud music and other noise disturbance. There is reference to caravans and camper vans being parked right up the boundary of the site, resulting in a loss of privacy to residents of the adjoining dwellings. There is also reference to light pollution.

53. The evidence in these representations is, on the whole, short on detail. However, it is consistent in describing the impacts alleged in the notice. To my mind, this consistency is reliable evidence that the impacts alleged in the notice have actually occurred and are perceived by residents as being harmful. This leads me to attach significant weight to this evidence.

54. I conclude that the use alleged in the notice has an unacceptably harmful effect on the living conditions of the occupiers of the adjoining residential properties, specifically in relation noise pollution, light pollution and loss of privacy. I therefore conclude that the breach of planning control is contrary to Policy 06 of the Local Plan which, amongst other things, requires that development does not have an unacceptable impact on the amenity of adjoining residents.

55. For the same reasons, the use fails to accord with paragraph 130(f) of the Framework, which seeks to ensure that developments create a high standard of amenity for existing and future users.

Other considerations

56. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be

in accordance with the plan unless material considerations indicate otherwise. I have found that the breach of planning control alleged in the notice fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.

57. I take the appellants' point that the use of the land to provide accommodation for visitors provides opportunities for the understanding and enjoyment of the National Park by the public, which is the second purpose of the National Park designation. But that must be viewed in context. The appellants have not identified a shortage of camping and caravanning sites in the area. As such, there is no evidence before me of a defined need for additional pitches in this location in order to achieve the second purpose of the National Park designation and to weigh against the harm that I have identified to the landscape and scenic beauty of the National Park.

58. I accept that the uses alleged in the notice all relate to the operation of the Wilson Arms public house and help to ensure that it remains a viable business. I also accept that this has a positive impact on the economic and social well-being of the local community. In that context, I note that Policy 06 of the Local Plan supports tourism proposals that are located within or adjacent to an existing accommodation site, which I understand the public house to be. The use therefore accords with the development plan in that respect.

59. A number of representations express support for the use or, at least, raise no objection to it. Part of that support derives from the perceived status of the Wilson Arms public house as a focal point of the village and a desire to see that remain as a viable business. This support clearly also weighs in support of the development.

60. The Inspector's decision to grant planning permission for a family glamping pod (APP/Q9495/W/21/3270266) was for an entirely different form of development and on a different part of the wider site. Unlike the development before me, the Inspector found that the glamping pod would not undermine the existing levels of tranquillity in terms of noise and light pollution. For those reasons, that decision does not form any precedent for allowing the type of development that is before me.

61. I have considered whether the harms that I identified above could be overcome by the imposition of suitably worded conditions, including those suggested by the Authority. In particular, I have carefully considered whether a condition limiting the use to between July and September each year would be appropriate. However, I am not persuaded that the harmful impacts on the living conditions of adjoining residents could be adequately controlled and/or mitigated, even over only few months. I have also considered whether the use could be linked to the Wilson Arms public house but again I am not persuaded that this would overcome the harms identified above.

Conclusion on ground (a) and the deemed planning application

62. For the reasons set out above, the breach of planning control alleged in the notice is contrary to the development plan. Having weighed the factors in support of the development, I am not persuaded that there are any material considerations of sufficient weight, either taken individually or cumulatively, to

indicate that determination should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not to be granted for the matters stated in the notice.

Appeal C: the appeal on ground (a) and the deemed planning application

63. Section 177(1)(a) of the 1990 Act provides that, on determination of an appeal under Section 174, the Secretary of State may grant planning permission in respect of the *matters stated in the enforcement notice* as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to any part of the land to which the notice relates (my emphasis). Applying the wording of Section 177(1)(a) to the facts of this case, it is first necessary to identify what are the matters stated in the notice.

64. In this case, the Authority has elected to issue the notice only in relation to operational development on the land. The Authority has elected to attack the uses taking place on the land in a separate notice (E/2021/0208A), which is the subject of Appeals A and B. As a result, the matters before me on this ground of appeal are purely the operational development stated in the notice, specifically stated as the formation of a track and parking hardstanding; the erection of an amenity building, with a covered deck area; the installation of a water tap stand; and the installation of two electric hook up points.

65. The wording of section 177(1)(a) of the 1990 Act requires that I consider these matters in isolation and not associated with any particular use. It is nevertheless relevant that I am not minded to grant planning permission for any of the uses alleged in enforcement notice E/2021/0208A, such that the only use to which the operational development could be put at this time is the existing lawful use of the land, which is for agriculture.

66. There are four distinct elements to be considered under this ground of appeal. It is therefore convenient to consider each separately in the first instance before reaching an overall conclusion.

The track and parking hardstanding

67. By reason of its width and length, together with its linear alignment, the track is an incongruous feature in this rural landscape. This harm is exacerbated by the absence of any obvious lawful purpose for the track as it currently exists. I am mindful that the track could potentially be reasonably required in association with the agricultural use of the land: for example, to access the woodstore. However, there is no evidence before me to indicate that a track of the width as constructed as necessary to provide access to the woodstore, especially given that the appellant says that the woodstore has been accessed for over 30 years using a much narrower, pedestrian only track.

68. The hardstanding has a similarly harmful impact on the rural landscape. There is no evidence before me to suggest that the hardstanding is reasonably required in association with the agricultural use of the land, or that the harmful visual impact of the hardstanding would be justified.

The amenity building and the covered deck area

69. By reason of its size and design, the amenity building is also an incongruous feature in this high-quality landscape, and is therefore harmful to this rural

setting. The formality of the covered deck area only serves to exacerbate that harm. The appellants have presented no evidence to show that the amenity building is reasonably required in association with an agricultural use of the land, especially given its proximity to the public house and other buildings.

The water tap stand

70. I recognise that the water tap could potentially be reasonably required in association with an agricultural use of the land, although I have no evidence before me that it is actually required for that purpose. I also recognise that the water tap is relatively small and inconspicuous, such that the visual harm is limited. But there is nevertheless some harm arising and, as the Authority points out, this is an environment that is sensitive to change. Furthermore, in absence of any use or other development with which it would be associated, the water tap standing in isolation would be wholly incongruous. Consequently, despite the limited harm that would arise, I consider that planning permission should not be granted for the water tap stand.

The electric hook up points

71. The electric hook up points are also small in scale and result in only limited visual harm. However, even more so than the water tap stand, the presence of the electric hook points in isolation would appear wholly incongruous in this rural landscape. Moreover, I again have no evidence before me to suggest that the electric hook up points would be reasonably required in association with any agricultural use of the land. In the absence of any requirement in connection with an agricultural use, they would serve no useful purpose and there is therefore no reason to grant planning permission for them.

72. I conclude that the operational development alleged in the notice fails to conserve or enhance the landscape and scenic beauty of the Lake District National Park, and harms the significance of the English Lake District Heritage Site. I therefore conclude that the breach of planning control is contrary to policies 01, 02, 05, 06, 07 and 18 of Local Plan.

73. For the same reasons, the operational development fails to accord with paragraph 176 of the Framework, a matter to which I attach great weight.

Conclusion on the appeal on ground (a) and the deemed planning application

74. For the reasons set out above, the breach of planning control alleged in the notice is contrary to the development plan. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan.

75. Accordingly, I conclude that planning permission ought not to be granted for the matters stated in the notice.

Conclusion

76. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act.

Formal Decisions

Appeals A and B Refs: APP/Q9495/C/21/3288063 & 3288064

77. The appeals are dismissed, the enforcement notice is upheld and, in relation to Appeal A, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeals C and D Refs: APP/Q9495/C/21/3288066 & 3288067

78. The appeals are dismissed, the enforcement notice is upheld and, in relation to Appeal C, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul Freer
INSPECTOR