
Appeal Decision

Site visit made on 31 May 2023

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2023

Appeal Ref: APP/W0910/W/22/3308866

Furness Abbey, Abbey Approach, Barrow-in-Furness, Cumbria, LA13 0PJ

- 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 HM Lord-Lieutenant of Northants David Laing of the David Laing Foundation against the decision of Barrow-In-Furness Borough Council.
 - The application Ref B18/2022/0291, dated 3 April 2022, was refused by notice dated 12 July 2022.
 - The development proposed is the installation of new statue in memory of Sir John Laing.
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Decision: the appeal is allowed and planning permission is granted for the installation of new statue in memory of Sir John Laing at Furness Abbey, Abbey Approach, Barrow-in-Furness, Cumbria, LA13 0PJ, in accordance with the terms of the application, Ref: B18/2022/0291, dated 3 April 2022, subject to the following conditions:

- (1) The development hereby permitted shall begin not later than three years from the date of this decision.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan S01; Existing plan, bench and wall S02; Existing elevation and section, bench and wall S03; Proposed Block plan SK01; Proposed plan, bench, statue and wall SK02; Proposed elevation and section, bench, statue and wall SK03; and Design and Access Statement WFA/DMV/L084A R01.
- (3) Prior to the commencement of the development hereby approved, an arborical method statement shall be submitted to and be approved in writing by the Local Planning Authority giving full details of how the sculpture and in particular the foundations, can be constructed without damage to any of the adjacent trees and mature planting surrounding the sculpture. The development shall proceed in accordance with the method statement.
- (4) Prior to the commencement of the development hereby approved, full details of an archaeological watching brief shall be submitted to and be approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved brief.

Procedural matters

1. On 1 April 2023, Barrow-In-Furness Borough Council, Eden District Council and South Lakeland District Council merged to form a new Unitary Authority called Westmorland and Furness Council. Appeals against the refusal of planning permission continue to refer to the name of the Local Planning Authority that made that decision, in this case Barrow-In-Furness Borough Council.
2. I have taken the description of the proposed development in the header above from the Council's formal Decision Notice. I understand that the description of development was changed by the Council in the course of determining the application, to which the appellant did not object.
3. The proposal is within the grounds of Furness Abbey, which is a Grade I listed building. There are also other statutorily listed buildings to the north of Furness Abbey which are associated with that building. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special regard to the desirability of preserving those buildings or their setting or any features of special architectural or historic interest which they possess. The whole site, including those listed buildings, is covered by the Furness Abbey Sivegnac and Cistercian monasteries Scheduled Monument. The site is encircled by, and therefore adjacent to, the Furness Abbey Conservation Area.

Main Issues

4. In the context of the above and having regard to the Council's reasons for refusal, I consider the main issue to be:
 - the effect of the proposal on the character and appearance of the site, having regard to its location within the settings of the listed buildings, the Scheduled Monument and the setting of the conservation area.

Reasons

Significance of the heritage asset: the listed buildings

5. The listing description for Furness Abbey cites the remains of a Cistercian Abbey dating to 1127 to c1500, and the extensive remains of St Mary's Church, chapter house, infirmary and domestic buildings¹. The significance of the listed building, insofar as relevant to this proposal, derives from its exceptional historical importance as a group of inter-related structures that collectively inform about the use of the monastery and the lives of those who lived and worked there.
6. To the north of Furness Abbey, on Abbey Approach, is the Abbey Tavern, a Grade II listed building. The listing description indicates that this building represents a fragment of a substantial hotel that served the Furness Railway². The significance of this listed building, insofar as relevant to this proposal, derives from the contribution it made to the development of Furness Abbey as a visitor destination and how that heritage asset was experienced.

¹ Statutory Address: Furness Abbey, including all medieval remains in care of English Heritage, Abbey Approach List Entry Number: 1197906

² Statutory Address: The Abbey Tavern, Abbey Approach List Entry Number: 1025255

7. To the north of that is the Capella Extra Portas with attached walls. These are statutorily listed Grade I. In addition to a description of the physical characteristics of the building itself, the listing description indicates that the building was used by dependents of the monastery and others who did not normally worship in the abbey church³. The significance of this listed building, insofar as relevant to this proposal, derives from the contribution it made to the wider use of Furness Abbey and its environs for religious purposes.
8. The immediate surroundings of the listed buildings, which includes the appeal site, form an important part of their setting. The open nature of the space allows the buildings to be experienced and their significance appreciated, encouraging spiritual contemplation. It also permits an understanding of their interrelationship with each other as a group. In all of these respects the buildings' setting tangibly and meaningfully contributes to their significance as designated heritage assets.

Significance of the heritage asset: the Scheduled Monument

9. The rich archaeological and historic interest of the site as well as the importance of the above buildings, together with others in the vicinity, is reflected in the designation of the site as a Scheduled Monument. The latter are identified within the Framework as designated heritage assets of the highest significance, which substantial harm to or loss of should be wholly exceptional⁴.

Significance of the heritage asset: the Furness Abbey Conservation Area

10. The Furness Abbey Conservation Area effectively encircles Furness Abbey and the other listed buildings identified above. The conservation area is largely comprised of open ground, within which there are groups of trees and areas of woodland. There are relatively few buildings within the conservation area but those that are present include a significant proportion of statutorily listed buildings. The significance of this heritage asset, insofar as relevant to this proposal, is that the conservation area provides the setting for Furness Abbey itself and the Scheduled Monument as a whole by surrounding them with a high quality yet neutral landscape in which their historic interest can be fully appreciated.

Effects of the proposal: listed buildings

11. Given the nature and location of the proposal, it is convenient to consider this matter in relation to all the listed buildings identified above. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. This paragraph also indicates that the more important the asset, the greater the weight should be. The paragraph goes on to explain that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 advises that significance can be harmed or lost through the alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.

³ Statutory Address: Capella Extra Portas with attached walls, Abbey Approach List Entry Number: 1292871

⁴ National Planning Policy Framework Paragraph 194 (b).

12. The proposal comprises the replacement of an existing bench and the installation of a statue in memory of Sir John Laing on the new bench. Hard surface in the form of re-used stone paving slabs is proposed underneath the bench to provide a solid surface.
13. The replacement of the bench does not require planning permission. Therefore, consideration is only required in respect of the erection of the statue and creation of stone paving beneath the bench.
14. The replacement bench on which the statue would be installed sits within a semi-circular stone wall behind which is dense vegetation bordering the railway embankment. In views from Furness Abbey itself, the bench and statue would always be viewed against the backdrop of that dense vegetation. On this basis, a life-size scale statue would not be unduly intrusive.
15. The semi-circular stone wall and the dense vegetation would prevent views from behind the statue towards Furness Abbey. Consequently, there would be no viewpoint from which the statue and Furness Abbey would be viewed in conjunction with each other. The proposal would therefore not affect the ability to positively experience the asset or its surroundings. In doing so it would not affect the ability to appreciate their significance.
16. The stone paving beneath the bench would be constructed using a suitable re-used local material and would have minimal and acceptable visual impact, both in terms of views from Furness Abbey and the vicinity of the statue.
17. Having regard to the above, I am satisfied that the proposal would preserve Furness Abbey and its setting, and in turn would not harm its significance as a designated heritage asset.
18. The other listed buildings identified above, The Abbey Tavern and the Capella Extra Portas with attached walls, are a considerable distance from the proposed statue and are visually separated from it by the Visitor Centre for Furness Abbey and the dense vegetation in vicinity of it. I am therefore satisfied that the setting of those listed buildings would not be affected by the proposal.

Effects of the proposal: the Scheduled Monument

19. Taking into account the modest size and nature of the proposal, I consider that it would have a neutral impact on the identified significance of this designated heritage asset.

Effects of the proposal: the Furness Abbey Conservation Area

20. The modest size and nature of the proposal, together with the dense vegetation behind it, ensures that it would not harm views from within the conservation area. For the same reasons, the proposal would have a neutral effect on the setting of the conservation area, and thus would not harm the asset's significance.
21. I conclude that the proposal would not harm the character and appearance of the site, in that it would preserve the listed buildings and their settings, have a neutral effect on the Scheduled Monument and would not have an adverse effect on the setting of the Furness Abbey Conservation Area. I therefore conclude that the proposal would meet the requirements of the Act and would comply with Policies DS2 of the Barrow Borough Local Plan 2016- 2031 (Local

Plan). Amongst other things, this policy requires that proposals contribute to the enhancement of the character, appearance and historic interest of related landscapes, settlements, buildings and open spaces. The proposal would also accord with the provisions within the Framework which seek to conserve the historic environment.

Characteristics of the site and its context

22. Policy DS5 of the Local Plan requires planning applications to demonstrate a clear process that analyses and responds to the characteristics of the site and its context. In relation to this Policy, the Council considers that the provision of the proposed piece of public art does not contribute to any design objectives for the site or area. I do not agree. The Design & Access Statement submitted with the planning application sets out a clear rationale for the proposal, including a succinct but specific heritage assessment and commentary on matters such as design, layout, scale and landscaping. This document demonstrates a clear process that analyses and responds to the characteristics of the site and its context. I am therefore satisfied that the proposal accords with Policy DS5 of the Local Plan.

Other considerations

23. 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 proposal accords 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.
24. A representation submitted at application stage questions the rationale advanced for this particular work of art and considers that the grounds of such an important site as Furness Abbey are not a suitable location for the erection a statue to Sir John Laing. However, the subject of the proposed statue is not before me: my consideration of this proposal is limited to matters such as the scale and location. I am also mindful that English Heritage, who manage the site, support the proposal.

Conditions

25. The Council has provided a list of conditions it favours should I be minded to allow the appeal. I have therefore adopted the conditions set out in the Officers Report for the application as reported to Committee, which recommended that permission be granted, but have amended the wording as appropriate. I consider that those conditions are necessary to make the proposal acceptable in planning terms, and that no further conditions are required. The appellant has not raised any objection to the imposition of these conditions.

Conclusion

26. Having regard to the above, I conclude that the proposed development would comply with the development plan when read as a whole. I have not been advised of any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the

development plan. I therefore conclude that planning permission ought to be granted for the proposed development, subject to conditions.

Paul Freer
INSPECTOR