
Appeal Decision

Site visit made on 7 August 2023

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2023

Appeal Ref: APP/Q9495/W/23/3316758

All 4 Pawz, The Square, Hawkshead, Ambleside LA22 0NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (1990) against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Thomason of Esthwaite Holidays Limited against the decision of Lake District National Park Authority.
 - The application Ref 7/2022/5617, dated 23/09/2022, was refused by notice dated 16 November 2022.
 - The development proposed is the change of use of ground floor retail to create enlarged living space for first floor apartment.
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Decision: the appeal is dismissed

Procedural matters

1. This appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission. The appeal property is statutorily listed Grade II and is within the Hawkshead Conservation Area. A separate application for listed building consent has been submitted to cover the alterations to the building to facilitate the proposed development (Authority Ref: 7/2022/5618), which I understand has been approved. I have duty under 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. However, I am satisfied from the approval of listed building consent for the proposed works that I do not need consider the effect of the proposed development on the historic fabric of the listed building here.
2. I also have a duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of at least preserving the character and appearance of the Hawkshead Conservation Area. I will consider this below under 'Other Matters'.

Main Issues

3. The main issues are whether the loss of the retail unit would:
 - be consistent with the role and function of Hawkshead as a Rural Service Centre, and
 - undermine policies to enhance the distinctiveness of The Squares, Hawkshead.

Reasons

Role and function of Hawkshead as a Rural Service Centre

4. Policy 02 (Spatial Strategy) of the Lake District National Park Local Plan 2020-2035 (Local Plan) defines Rural Service Centres as locations which provide the basis for self-sufficiency to live and work and which provide, or have access to, a range of local services and community facilities, a range of housing types, and local employment opportunities. The supporting text to Policy 02 specifically identifies Hawkshead as a Rural Service Centre.
5. Policy 23 of the Local Plan indicates, amongst other things, that the Authority seeks to sustain local services. The supporting text to that policy explains that this will be achieved, in part, by resisting the change of use of existing shops outside Primary Shopping Areas unless the current use is no longer suitable or viable for its purpose or it can be demonstrated that there are suitable alternatives within the settlement. The supporting text to this policy goes on to explain that the Authority will only support the loss of a community facility to other uses where there is compelling justification. The Glossary to the Local Plan defines 'community facilities' as including local shops. The supporting text further explains that proposals of this nature will be rigorously tested, for example through an appropriate marketing exercise to have taken place for a minimum of 12 months or evidence of demand from commercial property agents.
6. In his appeal statement, the appellant refers to a range of factors that, in his view, render the appeal property unsuitable for ongoing retail use. I consider each of those factors below. However, for the purposes of Policy 23 of the Local Plan, the appellant has provided no evidence that the proposal meets either of the two tests identified in the supporting text to that policy: namely, that there has been an appropriate marketing exercise that has taken place for a minimum of 12 months or evidence of demand from a commercial property agent(s).
7. In the absence of that evidence, the appellant has failed to demonstrate that the loss of this retail unit would not undermine the role and function of Hawkshead as a Rural Service Centre. I therefore conclude that the proposed development would not accord with Policies 02 or 23 of the Local Plan.

The distinctiveness of The Squares, Hawkshead

8. At the time of my site visit, which was at around lunchtime on a Monday afternoon, The Squares were busy and vibrant places. There was significant footfall in the main (southern) square, with the cafés and public houses all busy with customers. There was considerable activity surrounding the various shops (those that were open), although I am mindful that my site visit was at the height of the tourist season and that much of that activity was generated by visitors to Hawkshead rather than by local residents.
9. The northern square was noticeably quieter, albeit there was footfall associated with the Co-op. There was also movement through the passageway that connects the two Squares. At the time of my site visit, there were people 'window shopping' at the appeal property, although I did not observe any customers going into the shop to make purchases.

10. The appeal property presented an attractive shop front, with items displayed outside providing additional interest. The combination of the frontage, canopy and external displays conveyed a lively frontage which was attracting shoppers to the site and to the areas beyond. To that extent, the retail use of the appeal property makes a positive contribution to the vitality of the central area of the village and is an integral part of its distinctiveness. The loss of this unit to a residential use would undermine the existing retail offer in this part of the village centre and would not be consistent with the role and function of Hawkshead as a Rural Service Centre. It would also undermine policies to enhance the distinctiveness of The Squares by reducing further the balance between residential and other uses.
11. As the appellant points out, the "Tigers Eye" retail unit adjoining the application site has closed and is currently up for sale. The National Trust Shop was not open at the time of my site visit, and neither was the first Grasmere Gingerbread shop. The Kings Arms public house was closed for refurbishment, albeit a notice displayed outside provided an update on the refurbishment works (as of July 2023) with an indication that it would re-open in the summer of 2025. The Red Lion public house, whilst outwardly having the appearance of being closed, was in fact open and trading at the time of site visit. The appellant explains that the main retail offering in this area, The Co-op, is due to relocate within the village and that the Post Office may move into that space. The appellant also makes the point that shopping has moved online and notes the difficulty in staffing the various establishments in Hawkshead.
12. This leads the appellant to the view that the appeal property will shortly become the only retail offering in The Square. As a result, it is that appellant's view that the natural footfall will drop away and it will become increasingly difficult to make an economic argument for the shop to remain trading and profitable. However, the salient point is that notwithstanding the vacant shops and staffing difficulties, at the time of my site visit the centre of Hawkshead was still a busy and vibrant place. It would not be appropriate to base my decision on speculation as to what the footfall and retailing environment might be in the future, given the number and range of unknowns that are involved.
13. I conclude that the proposed development would undermine policies to enhance the distinctiveness of The Squares, Hawkshead. I therefore conclude that the proposed development would be contrary to Policy 12 of the Local Plan which, amongst other things, seeks to reinforce distinctiveness of place in the South Distinctive Area, including specifically through supporting public realm enhancement of 'The Squares' in Hawkshead.

Other considerations

14. 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 loss of the retail unit 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.
15. I fully recognise that, at some 25m² in floor area, the retail unit is relatively small and falls short of the standards set out in The Workplace (Health, Safety

and Welfare) Regulations 1992. That obviously reduces the attractiveness and potentially the viability of that retail unit. The absence of functioning services for staff, including a toilet or kitchen area, further reduces the attractiveness of the retail unit to prospective tenants. However, in the absence of a robust marketing exercise and/or advice from a commercial estate agent(s), I cannot discount the possibility that the unit would be attractive to some retailers.

16. Similarly, I note that at 21m² in footprint, the existing residential unit is below the minimum gross internal floor area and storage spatial standards for a one-bedroomed unit. The proposal would result in the living space increased to approximately 46m², and therefore in accordance with the relevant standard and providing a suitable size for residential occupation.
17. I am mindful that the existing situation is that both the retail unit and the residential unit are relatively small in area and both fail to accord with the respective standards, whereas the proposed development would at least provide a residential unit which complied with current space standards. But the Authority makes a valid point in this respect: the retail and the residential unit are likely to have formed a single planning unit at some point. In that scenario, toilet and kitchen facilities for the retail unit would have been provided within the residential unit. The result would potentially have been a fully functioning retail unit, and I have been presented with no evidence to show that a similar arrangement would not work equally well at this time.
18. Furthermore, notwithstanding its shortcomings in terms of space and facilities, I cannot ignore the fact that the retail unit was open and functioning at the time of my site visit. I have been provided with no evidence to show that the retail unit is operating at a loss and is not viable as an ongoing concern.

Other matters

19. The significance of the Hawkshead Conservation Area is derived, in part, from the tightly-grouped collection of high quality buildings, dominated by the church that sits on higher ground. Although there is a mixture of architectural styles represented, the majority of the high-quality buildings are in the local vernacular and this contributes to the distinctiveness of the conservation area. The uses of the buildings are mostly retail or residential.
20. The proposed change of use would not result in any significant changes to the external appearance of the building. The proposed change of use of the ground floor of the appeal property would not result in a significant change to the overall mix of uses within the conservation area. I am therefore satisfied that the proposed development would at least preserve the character and appearance of the Hawkshead Conservation Area.

Conclusion

21. I do not underestimate the challenges faced by the appellant in operating this small retail unit in this location. However, the appellant appears to have turned straight to the residential option without first going through the process aimed at sustaining Rural Service Centres set out in the Local Plan. For that reason, the proposed development would be 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. I therefore conclude that planning permission ought not to be granted at this time.

Paul Freer
INSPECTOR