



Appeal Decision

Site visit made on 18 June 2024

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

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal Ref: APP/Q9495/C/23/3331559

Land laying to the south of Brown Howe, Water Yeat, Ulverston

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr J Barratt against an enforcement notice issued by the Lake District National Park Authority.
- The notice was issued on 23 August 2023.
- The breach of planning control as alleged in the notice is, without planning permission, operational development of building operations comprising excavation, formation of foundations, erection of a timber building, and the installation of drainage together with the formation of hard surfaces by way of laying crushed slate aggregate.
- The requirements of the notice are to restore the land to its condition before the breach took place, by:
 - i. Demolishing or dismantling the timber building and foundations; and
 - ii. Removing from the Land the drainage system and associated pipework; and
 - iii. Removing from the Land all materials arising from steps i and ii
 - iv. Removing the crushed slate aggregate from the Land; and
 - v. Recontouring the slope of the Land to correspond with the slope of the Land prior to the operations taking place; and
 - vi. Seeding the Land with a mix suitable to restore the Land cover to its condition before the breach took place.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

The appeal on ground (a)

2. The appeal on ground (a) is that planning permission ought to be granted for the matters alleged in the notice. Where there is an appeal on ground (a), an application for planning permission is deemed to have been made for the development stated in the notice as constituting a breach.
3. From a review of the evidence before me, the main issue is the effect of the development on the landscape of the Lake District National Park and the outstanding universal value of the English Lake District World Heritage Site.
4. The appeal site is located within the Lake District National Park, a designated landscape of national importance which attracts the highest status of protection. Paragraph 182 of the National Planning Policy Framework (the Framework) requires great weight to be given to conserving and enhancing the landscape and

scenic beauty of National Parks. In addition, the site also falls within English Lake District World Heritage Site (the WHS), an internationally designated heritage asset of the highest significance.

5. The Lake District is characterised by its modest but dramatic mountain scenery with steep-sided narrow valleys radiating out from its centre, many of which contain long expansive lakes. Its distinctive landscape is a result of the unique fusion of natural features and human settlement. The Outstanding Universal Value (OUV) of the WHS is based on attributes of the landscape grouped under three interdependent themes relating to its exceptional beauty, shaped by agro-pastoral traditions; its inspiration of artistic and literary movements; and, its role as a catalyst for key developments in the national; and international protection of landscapes.
6. Coniston Water and its surroundings is a remarkable landscape of extraordinary beauty. The appeal site is located on the western shore of Coniston Water where the landscape is generally characterised by open countryside consisting of small fields surrounded by dense woodland that gently slope from the A5084 public highway down to the shore of Coniston Water. The site itself is generally open and free from built development. Its undeveloped and open character make an important contribution to the quality and tranquillity of the surrounding landscape. The site is also one of the few examples of inbye land along this part of the shore of Coniston, and thereby an important contributor to the historic agro-pastoral landscape of the WHS.
7. In stark contrast, the development has introduced a sizable 'log-cabin' style building, with a corrugated metal sheeting roof, and large areas of hardstanding to facilitate access from the adjacent highway. In doing so, the development is an incongruous addition to the landscape that harmfully intrudes into what was previously an undeveloped field. It is visible in limited public views from the lake and the adjacent highway. Nevertheless, it appears as a discordant feature in an otherwise high quality and tranquil landscape.
8. Furthermore, the land has been artificially banked up to provide a platform for the building, increasing its prominence within the landscape, particularly in views from the lake. The introduction of the development at this location has undoubtedly diminished the positive contributions that the site previously made to the landscape quality of the national park and the OUV of the WHS.
9. It could be possible to mitigate the visual impact of the proposal through a landscape scheme, but that would not overcome the harm to the open characteristics of the inbye land. I am also mindful that, generally, well-planned landscape schemes ought to enhance development rather than conceal inappropriate harmful development from view.
10. The appellant has suggested that, in the event that the appeal was to succeed, they would remove the existing storage building located on the roadside in order to limit the loss of inbye land. They have also suggested that they would be prepared to forfeit some permitted development rights. However, I have not been presented with any mechanisms to achieve these suggestions and, in any case, I am not satisfied that this would overcome the harm I have found.
11. In my judgement, the harm to the OUV of the WHS would be less than substantial. Nevertheless, this harm is of great weight and importance. Under such circumstances the Framework requires the harm to be weighed against the public benefits of the proposal.

12. The appellant has cited various personal reasons for the development being located at the site including, the replacement of an existing poor-quality building that is difficult to secure, and the convenience of storing leisure equipment close to the shore of the lake. However, there is little, if any, public benefit arising from these considerations. Therefore, given the great weight that I must give the harm to the WHS, these benefits do not outweigh the harm I have found in this case.
13. For these reasons, I conclude that the development has a harmful effect on the landscape of the Lake District National Park and the outstanding universal value of the English Lake District World Heritage Site. This is contrary to Policies 01, 02, 05, 06, 07 and 24 of the Lake District National Park Local Plan 2020-2035, and the associated provisions of the Framework. Together these policies seek to conserve and enhance the natural beauty of the landscape and heritage assets including the WHS attributes of OUV, to restrict development in the open countryside, to achieve design excellence, and to only permit lakeshore development in a limited number of circumstances.

Other Matters

14. The appellant suggests that they could achieve a similar form of development by exercising the permitted development rights as set out in Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). This allows for various types and forms of development which are 'reasonably necessary for the purposes of agriculture'. However, on the appellant's own evidence, the development is primarily to facilitate ease of access to the lake shore for water sports recreation and for the storage of water sports equipment. Therefore, the development would not be necessary for the purposes of agriculture. Furthermore, I have been provided with little evidence to demonstrate that the development would indeed meet all of the limitations and conditions stipulated by Part 6. Accordingly, I am not convinced that the above cited provisions of the GPDO could be relied upon.
15. In addition, pursuant to paragraph A.2(2) of Part 6, Class A, such development is subject to the prior approval of the local planning authority, and there is no evidence before me to suggest that the authority's approval would be forthcoming. Therefore, this does not represent a realistic or probable fallback position for the appellant. It is, therefore, of little weight in my consideration of this appeal.

Conclusion

16. I have found the development to be causing harm to the landscape of the Lake District National Park and the outstanding universal value of the English Lake District World Heritage Site. Accordingly, the proposals are contrary to the above cited policies of the development plan and no material considerations of sufficient weight have been advanced to overcome this.
17. Therefore, for the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J M Tweddle

INSPECTOR