



Appeal Decision

Site visit made on 30 July 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/Q9495/W/24/3341696

**Low Wood Bay Resort and Spa, Ambleside Road, Windermere,
Westmorland and Furness LA23 1LP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Berry of English Lakes Hotel Limited against the decision of the Lake District National Park Authority.
 - The application reference is 7/2023/5596.
 - The development proposed is the erection of 4no. individual suites with an external terrace.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4no. individual suites with an external terrace at Low Wood Bay Resort and Spa, Ambleside Road, Windermere, Westmorland and Furness, LA23 1LP in accordance with the terms of the application, reference 7/2023/5596, and subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effects of the proposal on the landscape and special qualities of the Lake District National Park and the outstanding universal value (OUV) of the Lake District World Heritage Site (WHS).

Reasons

Landscape and Special Qualities

3. Legislation¹ sets out the requirement to seek to further the statutory purposes of National Parks. Paragraph 182 of the Framework explains 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 this respect.
4. The appeal site is within the grounds of Low Wood Bay Resort and Spa, a large hotel complex with a water sports centre located to the south of Ambleside on the eastern shore of Lake Windermere. The site is located to the south east of the main hotel buildings on land described by the appellant as being used as amenity space in connection with the hotel. The site comprises predominantly semi-improved neutral grassland, scrub, and groups of trees².
5. Both main parties identify the site as lying in Landscape Character Type (LCT) M: Lowland Valley as defined in the Lake District National Park Landscape

¹ National Parks and Access to the Countryside Act 1949 (as amended)

² Preliminary Ecological Appraisal, prepared by Envirotech NW Ltd 08/09/2023, reference 7972

Character Assessment and Guidelines, revised April 2021 (the LCA). The Authority identifies further categorisations as being Landscape Character Sub-type M3: Enclosed Valley Side; and Area of Distinctive Character 39: Upper Windermere.

6. Distinctive characteristics identified in the LCA include panoramic and framed views of classic upland skylines and iconic lakes, and mixed landcover but predominantly pastoral grazing with plantations, scrub, and other woodland (generally broadleaved) often present. The eastern shoreline of Lake Windermere is described as having a very distinctive character, with numerous grand villas and houses set within well matured landscaped and wooded parkland and gardens. There is a strong sense of openness at the lakeshore, and a sense of business within the landscape, as a result of the popularity of this area as a visitor attraction.
7. A number of these characteristics are apparent in the landscape in which the site is set and the site itself. This includes woodland and parkland trees; areas of scrub, and pasture bounded by stone walls; hotels often accommodated in large villas and other tourism and leisure development on or close to the lake shore; and panoramic views.
8. Although the suites would extend into an area of the hotel grounds that is currently free from built development, in my judgement they would have a visual relationship with the existing hotel development. The suites would be in proximity to the sizeable storage/service building to the west and the small building that houses the hydroelectric plant to the south. Additionally, the appellant has highlighted that planning permission exists for the creation of a multi sports pitch and changing facility near to the northerly two suites. This would provide a further visual and spatial link between the development and the wider hotel complex. There is no clear evidence before me to suggest that this facility will not be developed.
9. Public Rights of Way (PRoW) pass close to the site to the south, north and north east. For the stretches of these PRoW in the vicinity of the site, views already encompass the existing hotel buildings, and the development would be seen in this context.
10. The suites would be limited in number and would be partially set into the sloping ground which would limit their prominence from the nearby stretches of PRoW. A number of the younger trees on the site would need to be removed to enable the development of suite 2. However, the high-quality mature trees within and around the site would be retained and additional planting is proposed, which would filter views and provide a backdrop against which the suites would be seen. Additionally, the suites would have a sedum roof, dark timber cladding for the walls and light grey stone paving which would help to soften their impact. Consequently, while the suites would be visible to users of these nearby stretches of PRoW, they would not appear as dominant or incongruous features and would not markedly change the experience for these receptors.
11. From stretches of PRoW further to the north and north east, the photographs within the appellant's Landscape and Visual Appraisal³ (LVA) demonstrates that from certain locations, the suites would be seen as more separate from the

³ Prepared by HCUK, September 2023, reference 09831A

hotel complex. Nonetheless, views of the existing hotel buildings would still be clearly evident. This, together with the change in the landscape character that is apparent just to the north east of the site, where pastureland bounded by stone walls becomes clearly noticeable, means that the development would be seen as relating more to the hotel than the surrounding countryside.

Furthermore, as with the nearer stretches of PRow, the sloping topography, the design and materials proposed, and the tree cover would limit the visual prominence of the development.

12. From the hillsides further to the north and north east, as represented by photoviewpoint 9 of the LVA from Wansfell Pike, the development would be viewed at some distance and would be a relatively small element within an expansive view of the lake. It would not therefore appear conspicuous.
13. Based on what I observed during my site visit and the submitted evidence, given the sloping topography, and the fact that the suites would be partially set into the hillside, panoramic views from the PRows towards Lake Windermere and its landscape setting would be maintained.
14. Views of the proposed development from the A591 would be heavily filtered by trees which would continue to provide screening during winter months due to the density of planting. The hotel buildings would also provide screening from locations along this road. There would be a similar context for views from the closer parts of the lake.
15. The LVA includes a representative viewpoint from the western side of the lake (photoviewpoint 10). From this location, the LVA predicts that all the suites would be fully screened by intervening woodland cover, even in winter. Given the dense woodland vegetation and the fact that the suites would not extend so far up the hillside as to encroach into the pastureland to the north east, I would not disagree with this assessment. Even if visible, the suites would be seen against the backdrop of the wooded hillside which, together with the materials proposed, would help to assimilate them into their setting. I appreciate that the lighting from the suites may be apparent and from this area would appear as somewhat distinct from the main hotel. However, there are several sporadic properties apparent in the area and so this would not appear as an alien feature.
16. Bringing these points together, the proposal would have a visual and functional relationship to the existing development within the hotel site. While the suites would be visible from stretches of nearby PRows, they would be seen within this context and so would not appear as unexpected features. Where the suites would be visible from more elevated sections of the PRows in the vicinity, only partial views would be possible due to the sloping topography and screening effect of the trees. They would not appear as an intrusive form of development, nor would they block open views of the wider countryside including the lake. Views of the proposed development from the west would be from longer distances across the lake and against the backdrop of the hillside, and combined with the materials proposed, would allow the proposal to assimilate with its landscape setting which is characterised by hotel development and a scattering of buildings.
17. The introduction of four suites would change the character of the site which is currently free from built development. Nevertheless, change does not always equate to harm which would be the case here given my reasoning above.

18. There are Historic Environment Record (HER) entries within and near to the site. A Heritage Statement⁴ was submitted with the previous application on the site for eight suites (the previous Heritage Statement). For HER4731, it states that it is possible that features identified through non-intrusive evaluation (geophysical survey) in 2014-16 still survive below ground and these could potentially comprise below-ground archaeological remains and could potentially reflect the remains of a supposed deserted medieval settlement. The appeal proposal is accompanied by a Heritage Statement⁵. This states that the deserted medieval village may, if it exists at all, extend into or near the site.
19. The Authority states that the recommendations in the previous Heritage Statement have not been addressed as part of the appeal scheme. The Authority considers that no details have been provided with the current proposal to provide an understanding of the nature of the archaeology within the site, and whether the loss of the archaeology resulting from the proposed development would be acceptable.
20. Paragraph 209 of the Framework states that in weighing applications that directly or indirectly affect non-designated heritage assets (NDHA), a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Given the limited evidence as to the nature of the feature that is the subject of HER4731, a precautionary condition requiring a written scheme of investigation would allow the advancement of the understanding of the potential archaeological remains. With this in place, I am satisfied that the potential archaeological value of the site would be preserved.
21. Overall, therefore, the proposal would not be an incongruous form of development, nor would it have an adverse effect on the landscape and scenic beauty of the Lake District National Park or its special qualities. The proposal would require the removal of some younger trees but proposes native tree and shrub planting as compensation. The proposed site plan shows areas of marshy grassland along the eastern boundary of the wider hotel site proposed as biodiversity net gain. These would provide some enhancement. The proposal would provide additional visitor choice in terms of accommodation, supporting the tourism industry. The proposal would therefore help to further the National Park purposes.
22. Consequently, the proposal would not conflict with Policies 01, 05, 06, and 18 of the 2021 adopted Lake District National Park Local Plan 2020-2035 (the Local Plan). In summary, and amongst other matters, these policies seek to ensure that the extraordinary harmony and beauty of the landscape and its special qualities are conserved and enhanced, and that development, including holiday accommodation, is appropriate to the character of its location. There would also be no conflict with the aims of the Framework in respect of National Parks as summarised above. As the proposal would help sustain an existing business and would be located within or adjacent to an existing visitor accommodation site, there would be no conflict with the locational requirements of Policies 02 and 18 of the Local Plan.

⁴ prepared by Minerva Heritage Ltd, July 2022

⁵ Prepared by HCUK Group, September 2023

OUV of the WHS

23. The Lake District is a WHS which is identified in paragraph 206 of the Framework as a heritage asset of the highest significance. The OUV of the WHS is in part attributed to the extraordinary beauty and harmony of the physical, natural, and cultural landscape of mountains, lakes, valleys, and woodland; the rich cultural and vernacular architectural heritage; the historic open access to the Lake District fells and lakes for recreation, and the perception and enjoyment of a largely open landscape.
24. Given my conclusions on the effects of the development on the landscape and special qualities of the Lake District National Park above, I am satisfied that there would be no harm to the OUV of the WHS. Consequently, there would be no conflict with Policies 01, 05 and 07 of the Local Plan which seek to conserve and enhance the attributes of OUV and the significance of heritage assets. There would also be no conflict with the Framework objectives for the historic environment.

Other Matters

25. The Grade II listed Low Wood Hotel dates from the eighteenth-century. Its significance in part derives from the aesthetic value of its varied architectural features, layout and materials and its historic value associated with the development of the early tourism industry within the Lake District. The landscape in which it is set contributes to its significance, in particular its position near to the lake shore. The suites would be separated from the listed building by more modern unlisted development which, together with the dense vegetation, would restrict views of the proposed development in conjunction with the listed building. Consequently, the proposal would not visually distract from the listed building and its prominence within its lakeside setting would be maintained. The setting of the listed building would therefore be preserved.

Conditions

26. I have considered the conditions suggested by the Authority. I have amended the wording of certain conditions having regard to the six tests set out in the Framework without altering their fundamental aims. This includes separating the list of approved documents, and where relevant their recommendations, into separate conditions in the interests of precision.
27. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
28. Given the potential for features of archaeological interest, a condition requiring a written scheme of investigation is necessary. A condition requiring tree protection details during the construction phase is necessary to minimise the risk of damage to nearby trees. These conditions are required pre-commencement as a later trigger for the submission would limit the effectiveness or the scope of measures which could be used.
29. To minimise the effects of the construction phase, a condition requiring that the construction of the development is carried out in accordance with the appellant's Construction Method Statement is necessary. In the interests of maintaining and enhancing biodiversity, a condition requiring implementation of the mitigation/recommendations set out in the appellant's Preliminary

Ecological Appraisal is necessary. In the interests of the character and appearance of the area including the scenic beauty and special qualities of the National Park, conditions are necessary to secure details of the external materials of the suites, the submission and implementation of a landscaping scheme, and details of any external lighting. A condition is necessary to limit the occupation of the suites to holiday purposes only, to limit the time period for occupation and require a logbook of such details.

Conclusion

30. The proposal would accord with the development plan as a whole and there are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

SCHEDULE OF 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 drawing nos. Site Location Plan 6286b/b/02; Proposed Site Plan 6286/c/b/01 Rev.D; Proposed Plans and Elevations 6286/c/b/02; Proposed Elevations and Sections 6286/c/b/03; Proposed Site Section 6286/c/b/04.
- 3) No development shall take place until a programme of archaeological work has been implemented in accordance with an archaeological written scheme of investigation which shall have been submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to the commencement of development, a tree protection method statement shall be submitted to and approved in writing by the Local Planning Authority. Such method statement shall provide details and plans of the measures and working practices to be employed to prevent damage to trees on and around the site, including the adjacent woodland, and shall include details of how services would be provided for the suites. The development shall thereafter take place in accordance with the approved details.
- 5) Above ground construction shall not commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) timber wall materials;
 - ii) timber screening materials to hot tub enclosures;
 - iii) stone gabion wall materials;
 - iv) green roof details.Thereafter the development shall be carried out in accordance with the approved details and retained as such thereafter.
- 6) Details of any external lighting shall be submitted to, and approved in writing by, the Local Planning Authority prior to installation. Such lighting shall be maintained in accordance with the approved details thereafter.
- 7) Not later than 12 months from the completion of the development hereby permitted or its first occupation, whichever is the sooner, landscaping of the site shall be undertaken in accordance with the details of a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The said scheme shall include details of hard and soft landscaping proposals and boundary treatments.

The planting shall thereafter be maintained in accordance with a management plan which has first been submitted to and approved in writing by the Local Planning Authority, or such management plan as the Local Planning Authority may from time to time approve thereafter. The first management plan shall be submitted to the Local Planning Authority not later than 12 months after the approval of the planting schedule required above.

Any trees or plants which, within a period of five years thereafter, die, are removed or become seriously damaged or diseased shall be replaced in the next

planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.

- 8) Construction of the development hereby permitted shall take place in accordance with the Construction Method Statement prepared by Mason Gillibrand Architects, reference 6286, dated 11 October 2023.
- 9) The development hereby permitted, including its construction, shall take place in accordance with the mitigation/recommendations in section 7 of the Preliminary Ecological Appraisal prepared by Envirotech NW Ltd, reference 7972.
- 10) No accommodation suite shall be occupied other than for holiday purposes. For the avoidance of doubt, no accommodation suite shall be occupied as a person's sole, or main place of residence. An up-to-date register of the names of all owners/occupiers of the accommodation suites and of their main home addresses shall be maintained and shall be made available at all reasonable times to the Local Planning Authority.