



Appeal Decision

Site visit made on 13 November 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2024

Appeal Ref: APP/Q9495/W/24/3345975

Bankend Farm, Torver, Coniston LA21 8BT

- 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 Cooper against the decision of Lake District National Park Authority.
 - The application Ref is 7/2023/5670.
 - The development proposed is creation of access and farm track (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for creation of access and farm track (retrospective) at Bankend Farm, Torver, Coniston LA21 8BT in accordance with the terms of the application, Ref 7/2023/5670, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, including the Lake District National Park (LDNP), the English Lake District World Heritage Site (WHS), and the setting of the listed buildings.

Reasons

3. The appeal site runs alongside the highway, encompassing a stretch of stone wall and part of the field to the south-west of the existing farm buildings. The appeal scheme includes the provision of a new vehicular access and the laying of an access track across this field. To facilitate this, a short segment of the stone wall has been removed. Furthermore, to ensure sufficient visibility at the access, a 33 metre stretch of the remaining wall to the east of the access is proposed to be lowered to no more than 1 metre in height. A new hedgerow is also proposed to be planted behind this wall.
4. At the time of my site visit I saw that the new access had already been created, and the access track across the appeal site had been laid. The proposed lowering of the boundary wall and hedgerow planting had not occurred. The appeal is therefore considered, in part, retrospectively.
5. As a site within the designated LDNP¹, there is a statutory duty² upon relevant authorities exercising their function to seek to further the purposes for which National Parks are designated. This includes conserving and enhancing their natural beauty, wildlife and cultural heritage. Paragraph 182 of the National

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

² Levelling-up and Regeneration Act 2023

Planning Policy Framework (the Framework) requires great weight to be given to these purposes.

6. The WHS is a heritage asset of the highest significance. Paragraph 205 of the Framework states that great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be), irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The WHS derives significance and its Outstanding Universal Value from the landscape and traditional human activity, including the distinctive agro-pastoralism which give it its special character.
7. The Landscape Character Assessment³ (LCA) describes this area as having a ridged and hummocky topography. Belts of linear broadleaved woodland punctuate the network of fields. Field boundaries are delineated by a combination of mature hedgerows and traditional stone walls. The Lake District Design Code Adopted September 2023 notes that drystone walls are a traditional form of boundary treatment within the National Park. The provision of hedgerows as boundary features is also advocated.
8. I saw that, in the vicinity of the appeal site, boundaries between fields and the highway vary in composition, including a mix of stone walls and hedgerow, of varying heights. The wall opposite the appeal site is lower in height. There are also local examples of boundaries composed entirely of hedgerow, and some with hedgerow behind or integrated with walls. This combination of enclosures positively contributes to the locally distinctive and agro-pastoral character and appearance of the area.
9. Based on the evidence and my own observations, the wall would finish above the ground level behind it. Though the ground level would eventually rise higher than the wall, this is a feature of the local topography and common in this and neighbouring fields. While this could have exposed part of the track at the higher part of the field, the planting of a hedgerow behind the wall and outside of the visibility splays would be sufficient to adequately mitigate any harmful views of the track from the road. Details of the height and density of the hedgerow as planted can be agreed through a landscaping condition.
10. In the above context, the provision of a combination of a lowered stone wall with hedgerow behind at the site would not appear incongruous or detract from the character of the area. It would therefore also not have a harmful effect on the significance of the WHS.
11. The appeal site also sits within the setting of five Grade II listed buildings (LB). These are arranged around the farmyard to the north-east of the appeal site. Special regard must be given to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which they possess⁴. In so far as it relates to this appeal, the significance of the LBs is derived from their traditional agricultural form and appearance, consistent materials and features, and their relationship to one another and the surrounding landscape.
12. The affected wall forms part of a network of walls in the setting of the LBs, which delineate field boundaries. It is viewed in the same context as the LBs,

³ Lake District National Park Landscape Character Assessment and Guidelines Revised April 2021

⁴ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

particularly when approaching from the southwest. Nevertheless, the development would be in keeping with the character and appearance of the area and the alterations to the boundary wall and soft landscaping would not harm the setting of the heritage assets or legibility of historic agricultural practices at the site. The appeal scheme would thus have a neutral effect on the LBs and would preserve their aesthetic and historical significance.

13. I conclude that the appeal scheme would not have a harmful effect on the character and appearance of the area, including the LDNP, the WHS, and the setting of the LBs. It is in accordance with Policies 01, 05, 06 and 07 of the Lake District National Park Local Plan 2020-2035 Adopted May 2021. These policies, among other provisions, seek to ensure development proposals are consistent with the National Park purposes and duty and that they protect the authenticity, integrity and significance of the Lake District. They support development that maintains local distinctiveness and sense of place, guided by the LCA, and that reinforces the importance of local character. They also seek to conserve and enhance the significance of heritage assets.

Conditions

14. The Authority has suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the Planning Practice Guidance and the tests for conditions set out in Paragraph 56 of the Framework.
15. In addition to the landscaping condition referred to above, it is necessary to specify the approved plans as this provides certainty.
16. In the interests of highway safety, conditions are also required to ensure there are no gates opening outwards towards the highway, the first five metres of the access is hard surfaced with bound material, the first ten metres of the access is given a gradient of 1 in 25, and visibility splays are provided and maintained as proposed.
17. A condition is also required to secure details of surface water drainage measures, in the interests of highway safety and to reduce the risk of surface water flooding.

Conclusion

18. The appeal scheme adheres to the development plan as a whole and there are no other considerations that would outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Ryan Cowley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos:
PB1a (Location Plan)
D01f (Site Plan)
- 2) Within one month of the date of this decision, visibility splays shall be provided in accordance with the details shown on drawing no. D01f (Site Plan). The drystone wall to the north east of the access hereby permitted shall be reduced to one metre in height and finished to match the appearance and construction method of the existing drystone wall. Notwithstanding the provisions of the Town and Country Planning (General Development)(England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay shown on the approved plan which obstruct the visibility splays.
- 3) Within three months of the date of this decision, drainage measures to prevent surface water discharging onto the highway shall be installed in accordance with details which shall have first been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the drainage measures shall be maintained in accordance with the approved details.
- 4) Within three months of the date of this decision, the first five metres of the access, measured from the carriageway edge, shall be hard surfaced with bound material.
- 5) Within four months of the date of this decision, the first ten metres of the access, measured from the carriageway edge, shall be given a gradient of 1 in 25.
- 6) Within nine months of the date of this decision, 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 the quantity, size, species, position and method of planting of the proposed hedgerow. 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.
- 7) No gates shall open outwards towards the highway.

END