



Appeal Decision

Site visit made on 10 December 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal Ref: APP/K0940/W/24/3346949

Gleaston Water Mill, Gleaston, Ulverston, Cumbria LA12 0QH

- 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 Michael and Victoria Brereton against the decision of Westmorland and Furness Council.
 - The application Ref is SL/2023/0515.
 - The development proposed is the erection of a timber building to provide self catering accommodation for up to four people, on land previously used for an apiary.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). Although some sections and paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. The parties would not therefore be prejudiced by reference to the revised Framework.

Main Issues

3. The main issues in relation to this appeal have flowed from the Council's reasons for refusal. The appeal site relates to the Grade II listed Gleaston Water Mill. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act (the Act) 1990, requires me to have special regard to the desirability of preserving a listed building, its setting and any features of special architectural or historic interest which it possesses. Consequently, I have included a main issue on whether the proposal would preserve the setting of the listed building, incorporating the effect on the character and appearance of the area. The main parties were given the opportunity to comment on this matter during the appeal process and I have considered the responses received to inform my decision.
4. The main issues of this appeal are therefore;
 - whether the proposal would preserve the setting of the Grade II listed Gleaston Water Mill including the character and appearance of the area;
 - whether the appeal site would be a suitable location for tourist accommodation with regard to the development plan; and
 - whether the appeal site would be a suitable location with regard to flood risk.

Reasons

Setting of the Listed Building

5. Gleaston Water Mill dates from the 18th century and is constructed from traditional local natural stone and slate. Having been extended, it now has a largely rectangular plan form under a gabled roof, as is typical of vernacular architecture. Being located close to the road and 3-storeys in height, it is an imposing building with its former industrial use easily understood from its form, such that it is not in my view unremarkable. The special interest/significance of the Mill therefore derives from its age, historic fabric, form and function and architectural features including milling machinery. The Framework directs me to attach great weight to an asset's conservation, in this context meaning to sustain and not harm, an asset's significance.
6. The setting of the asset is not confined to its curtilage¹. The Mill is experienced from Mill Lane in the context of the rolling pastoral countryside and Deep Meadows Beck which forms its surroundings. Other buildings lie predominantly to the west of Mill Lane including the former farmhouse, café and a selection of outbuildings which generally have linear proportions and pitched roofs without ornamentation.
7. The appeal site lies relatively close to the mill but on the opposite side of Mill Lane in proximity to the mill race, which after being culverted underneath the road appears as a natural channel leading to Deep Meadows Beck. It seems to me, that any tree specimens are located to the periphery of the appeal site, such that it does not obviously appear as woodland as described by the appellants. Nonetheless, as an undeveloped parcel of land free from built structures, the appeal site contributes positively to the rural setting of the asset and wider countryside location.
8. Although not visible from the windows within the front elevation of the Mill, the appeal site is visible from 2 side windows such that there is a visual link between the two. The ability to view the rural surroundings from the asset as well as being able to experience and view the mill in its rural locality are therefore important to its significance.

The Proposal

9. The proposed building would take the form of a Scandinavian Grillkota, a type of timber lodge with a low eaves height, conical shaped roofs and glazed dormer windows. It would be raised up above ground level on plastic supports with a projecting veranda and staircase, details of which are absent from the proposed plans.
10. The Council's position in respect of the impact of the proposal on the setting of the listed building which it does not seek to define, is not entirely clear. On the one hand it suggests that the proposal would not have a significant impact on the setting of the Mill but that it would be harmful to the character and appearance of the area². I also note that the Conservation Officer (CO) appears to acknowledge that there would be in the words of the Framework, 'less than substantial harm' to the Mill's setting. The CO suggests that the bespoke appearance, lightweight fixing of the structure and established

¹ See definition of setting of heritage asset as described at Annex 2 of the Framework.

² Email from the Council to the Planning Inspectorate dated 21 January 2024.

hedgerow would provide mitigation but nonetheless, low to moderate harm is still attributed to the proposal.

11. I understand the desire to produce a building that provides a unique tourist offer, that also differentiates itself from the historic buildings to evidence the evolution of the site over time. However, the proposal would have an unusually distinct appearance that in combination with its raised position would result in a complicated, incongruous form of development. This would be in stark contrast to the utilitarian appearance of the Mill and the simplicity of the wider building group. Whilst understanding the desire to avoid a pastiche form of development, I am not satisfied that the preferred Scandinavian design solution is appropriate in the context of an 18th century rural water mill in Cumbria. Other forms of contemporary development that nod towards local materials and/or traditional forms are more likely to be sensitive to the historic environment.
12. The existing hedgerow is mature and would provide a good degree of screening in the summer months when in leaf. However, I saw that in winter it was possible to see through the hedgerow to the post and rail fence on the opposite side of the appeal site and a very localised view was also possible from the nearby field gate on Mill Lane. There is no guarantee that the hedgerow would be a permanent feature and would not be reduced in height or die back. In any event, the conical roofs would be visible from the Mill, particularly from the first-floor side window. Albeit at present this does not appear to be a publicly accessible area, its current lack of use would not undermine the important visual relationship between the Mill and its rural surroundings.
13. Public views would be limited and localised but the proposal would not be invisible as suggested by the appellants³. Nonetheless, the large physical presence of the building on otherwise undeveloped land would erode the spacious qualities of the appeal site. The proposal would harmfully disrupt the visual relationship between the listed building and result in the encroachment of unsympathetic built development into its rural environs. Any structures associated with the previous use of the site as an apiary have been removed, such that they are not determinative to the acceptability of the proposal.
14. Drawing all of the above together, I concur with the Council's CO that the setting of the asset would not be preserved or enhanced, but that harm would be exerted from the inharmonious design of the proposal⁴. The harm would be moderate given the scale of the development and the presence of some landscaping, but no less important given the context of the listed building. I find that the harm would be less than substantial. Hence, I am required to weigh such harm against the public benefits of the proposal, including securing the asset's optimum viable use.

Heritage Balance

15. Gleaston Water Mill has been lovingly restored by the appellants over a number of years and it is operated as a museum showcasing local rural lifestyles and history. Its ongoing costs are supplemented by income from a

³ With reference to the appellants email to the Planning Inspector of the 23 January 2025.

⁴ As set out within the final paragraph on page 2 of the conservation response on proposed development document.

small shop, tearoom and existing holiday cottage occupying buildings within the wider building group. However, existing operations result in a small annual shortfall in revenue with no reserve or contingencies. Additional costs thus have to be met from the appellants personal income which I recognise is not sustainable. I have not been provided with recent annual audited accounts for the existing business. Nevertheless, I have no reason not to take the appellants income and expenditure figures at face value. The evidence presented indicates that the Mill operates at the margins of profitability and being privately owned, public funding is unlikely to be available.

16. Income from the proposed holiday accommodation would support the ongoing operation and maintenance of the museum, enabling the preservation of the Mill and its associated machinery for the benefit of the community and visitors. In this regard, the proposal would support the optimal viable use of the asset and can be considered as a public benefit of the proposal.
17. The appellants willingness to negotiate obligations to support their proposal is very positive. However, I am only able to consider the evidence before me, and a signed obligation has not been supplied. Without a S106 agreement, there would be no guarantee that the holiday accommodation would not be sold off or that the income generated would go towards supporting the museum use. Nor would future public access be guaranteed.
18. I acknowledge that this is not the intention of the appellants but nonetheless, without a S106 agreement I cannot be certain that the benefits, namely the ongoing operation and maintenance of the museum, would be realised. Given the potential complexities involved regarding the finances, I am not satisfied that this matter could be appropriately dealt with by a planning condition.
19. I acknowledge that provisions may have been made via other legal mechanisms to ensure the ongoing future preservation and public access to the property. However, this would not compensate for the lack of a S106 agreement which would be necessary to make the development acceptable in planning terms⁵. Moreover, the benefits of the scheme including adding to the range of available holiday accommodation and contribution to the local economy through additional spending, could be achieved through a more sensitive solution.
20. The aforementioned public benefits would not be realised and thus, they would not outweigh the harm identified. For this reason, my view contrasts with the Council's CO. Accordingly, there would be conflict with paragraph 200 of the Framework, as the harm to the significance of the asset would not have clear and convincing justification.
21. The proposal would fail to preserve the setting of the Grade II listed Gleaston Water Mill, including the rural character and appearance of the area. The proposal therefore fails to comply with Policy DM3 of the South Lakeland Development Management Policies Development Plan Document (DMPDPD) 2019, and Policy CS6 of the South Lakeland Local Development Framework, Core Strategy (CS) 2010. Together these policies seek to conserve, enhance and where appropriate, better reveal the significance of listed buildings and their settings, objectives shared by section 16 of the Framework.

⁵ As set out in the tests for planning obligations at paragraph 58 of the Framework.

Suitable Location

22. Policy DM18 of the DMPDPD seeks to support proposals for tourist accommodation that are located in appropriate locations and that of an appropriate scale and design, to ensure that proposals will not have a detrimental impact on their surroundings. It states that proposals for new build purpose built self-catering accommodation (excluding development classified as caravans and camping) outside development boundaries, will normally only be permitted in exceptional circumstances.
23. I have already determined that the proposed holiday let would not be of an appropriate design to prevent a detrimental impact on its surroundings. The appellants do not dispute the Council's position that the appeal site is not located within or adjoining a principal, key or local service centre and I have no reason to take a different view. Exceptional circumstances would need to be demonstrated in order to permit the proposal on land outside a development boundary.
24. As discussed above, the proposed holiday accommodation would futureproof the revenue stream of the museum, whilst simultaneously enabling increased overnight visitor stays that would contribute to the local economy. However, there is no S106 agreement to secure these benefits and to make the development acceptable in planning terms. The proposal would not therefore provide the exceptional circumstances to warrant the development of holiday accommodation in the countryside, outside of a defined centre.
25. I find that the proposal would not be sited in a suitable location for tourist accommodation having regard to the development plan. It would therefore conflict with Policy DM18 of the DMPDPD as set out above.

Flooding

26. The appeal site is located close to Deep Meadows Beck, a statutory main river. The appellants' Flood Risk Assessment⁶ suggests that the appeal site is within flood zone 2 (FZ2) while the Environment Agency suggests that it lies within flood zone 3 (FZ3). Either way, the appeal site is located in an area at risk of at least a medium probability of flooding. Sites used for holiday purposes subject to a specific warning and evacuation plan are categorized as a 'more vulnerable' form of development⁷.
27. Policy CS8.8 of the CS and Policy DM6 of the DMPDPD seek to avoid inappropriate development in areas at risk of flooding, by directing development away from areas at highest risk (from all sources) taking account of climate change and vulnerability of future users to flood risk, but where development is necessary, making it safe without increasing flood risk elsewhere. This includes where relevant applying a sequential test (ST) and an exception test (ET).
28. This echoes the approach within the Planning Policy Guidance (PPG) and paragraph 170 of the Framework. Development should not be permitted if there are reasonably available sites appropriate for the proposed development, in areas at lower risk of flooding. Reasonably available sites are those in a suitable location for the type of development with a reasonable prospect that

⁶ SL/2023/0515 Gleaston Water Mill Flood Risk Assessment (Product D).

⁷ Annex 3 of the Framework.

the site is available to be developed at the point in time envisaged for the development.

29. The parties dispute the extent of the area necessary for the sequential test and therefore, whether there are reasonably available sites elsewhere at a lower risk of flooding to accommodate the proposed development. The PPG advises that the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.
30. The sequential test has been limited to land within the ownership of the appellants. The PPG is unambiguous in stating that lower-risk sites do not need to be owned by the appellants to be considered 'reasonably available.' This means that ownership should not be a constraint to a search for lower-risk sites. However, the appellants require the development to support the ongoing operation and maintenance of Gleaston Mill as a museum. It would not seem unreasonable therefore that the sequential test (ST) applies to the appellants land, given the need to tie the development to the Mill and the business which has a specific geographical location.
31. The documentation supplied does not provide a clear plan to identify all of the appellants land ownership. Map 1 within the FRA indicates that 5 sites have been considered and 4 have been discounted. Area A is large and photographic evidence has been supplied indicating historic flooding on the natural low-lying floodplain immediately adjacent the watercourse.
32. However, it is suggested that not all of the area is within FZ3 and the photographs appear to indicate that there are areas of ground not subject to the flooding events, for example next to Lile Cottage or the store. Although this area has been discounted for reasons including the living conditions of holiday occupants, landscape and heritage grounds, there is no conclusive evidence that the site would be unacceptable on these grounds. This location would appear to be further away from the heritage asset and a source of flooding. From the evidence before me, I cannot be satisfied that there are not reasonably available sites elsewhere at a lower risk of flooding.
33. The Local Lead Flood Authority does not object to the proposed development. However, the EA is responsible for flood risk management activities in relation to main rivers. It advises that the FRA supplied does not adequately address the flood risks posed by the development and it fails to provide important information and considerations relevant to flood risk including climate change, sufficient for it to raise an objection. It seems to me that the submitted information does not accurately depict or specify the proposed stilted platform or raised deck, the suggested flood level is theoretical and climate change has not been adequately considered.
34. For these reasons, I cannot be certain that the mitigation measures to address flood risk for the lifetime of the development would be acceptable. Moreover, the absence of a S106 agreement to secure the public benefits of the scheme means that the sustainability benefits to the community have not been demonstrated. For these reasons, even if the ST had been met, the proposal would not have met the ET.
35. I find that it has not been demonstrated that the appeal site is a suitable location for the proposed development with regard to flood risk. The proposal

is therefore contrary to Policy CS8.8 of the CS, Policy DM6 of the DMPDPD and paragraph 170 of the Framework, as set out above.

Other Matters

36. The EA has indicated that a Flood Risk Activity Permit would be required but is likely to be refused due to the proposed building works in proximity to the statutory watercourse. As this is a separate legislative process it does not affect the ability to grant planning permission for the development, were it acceptable in all other regards. However, refusal to grant a permit would prevent the appellants from implementing a planning permission.
37. Reference is made to unusual contemporary design at Urswick School, adjacent the Grade I listed church of St Mary and St Michael, and the Buddhist Temple adjacent to the Grade II* listed Conishead Priory. No details of these buildings have been supplied, nor the circumstances which led to their approval, including whether any harm to the heritage assets was identified and if so, whether it was considered to be outweighed by public benefits. Their existence would not in any case justify development that I have found would be harmful.
38. Support for the scheme does not equate to a lack of harm and I am mindful that there are objections to the scheme, including from statutory consultees. I do not underestimate the importance of maintaining the Mill in use as a museum, given its value as a heritage asset of national importance. However, another form of development secured by an appropriate mechanism could assist the appellants in safeguarding the business for the benefit of the community in the long-term. This is a matter for the parties to resolve.

Conclusion

39. This specific proposal would cause harm to the setting of the listed building including the character and appearance of the area, as well as flood risk. Without a planning obligation the public benefits of the scheme would not be realised, nor the suitability of the location overcome. The proposal therefore conflicts with the development plan and there are no material considerations in this instance which indicate that a decision should be made otherwise than in accordance with it. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR