



Appeal Decisions

Site visit made on 14 January 2025

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

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal A Ref: APP/Q9495/C/23/3334529

Land at Nos. 19 & 21 Victoria Street, Windermere LA23 1AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Vincent Gregg of The Craft Baa Ltd against an enforcement notice issued by the Lake District National Park Authority.
- The enforcement notice, ref. E/2021/0033A, was issued on 1 November 2023.
- The breach of planning control as alleged in the notice is failure to comply with conditions imposed on a planning permission ref 7/2017/5792 granted on 13 April 2018.
- The development to which the permission relates is change of use from residential to café (A3) and retail (A1).
- The conditions in question are nos. 5, 6, and 8 which state:
 5. Prior to the use of the external seating area to the front of no. 21 Victoria Street, details of the dividing wall between nos. 19 and 21 Victoria Street and details of any heating, lighting and tables and chairs shall be submitted to and approved in writing by the Local Planning Authority.
 6. No tables, chairs and seating shall be placed on the area to the front of no.19 Victoria Street at any time.
 8. Prior to the use hereby permitted being implemented a self closing front door shall be installed and maintained thereafter. Details of the door shall be submitted to and approved in writing by the Local Planning Authority prior to its installation.
- The notice alleges that the conditions have not been complied with in that: no details of the dividing wall and any heating, lighting, and tables and chairs were submitted to and approved by the Local Planning Authority, as required by condition 5; the area to the front of No.19 has been furnished with chairs, tables and seating, contrary to the stipulation of condition 6; and, no details of a self closing front door have been submitted to and approved by the Local Planning Authority, and no such door has been installed, as required by condition 8.
- The requirements of the notice are to:
 - i. Comply with Condition 5 of planning permission 7/2017/5792 by ceasing to use the external seating area to the front of no. 21 Victoria Street (as marked green on plan B – Appendix A) unless details of the dividing wall between nos. 19 and 21 Victoria Street and details of any heating, lighting and tables and chairs have been submitted to and approved in writing by the Local Planning Authority.
 - ii. Comply with Condition 6 of planning permission 7/2017/5792 by permanently removing all tables, chairs and seating from the area to the front of 19 Victoria Street (as marked blue on plan B – Appendix A).
 - iii. Comply with Condition 8 of planning permission 7/2017/5792 by installing an overhead door closer to the door marked in red on the attached photograph – Appendix B.
- The period for compliance with requirements i. and ii. is seven days and for requirement iii. is 28 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f), (g) of the Town and Country Planning Act 1990, as amended (the Act). 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.

Appeal B Ref: APP/Q9495/C/23/3334530

Land at Crafty Baa, 19 & 21 Victoria Street, Windermere LA23 1AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Vincent Gregg of The Craft Baa Ltd against an enforcement notice issued by the Lake District National Park Authority.

- The enforcement notice, ref. E/2021/0033B, was issued on 1 November 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, operational development consisting of the erection of a window box and the installation of two awnings in the approximate position marked with a cross on the attached plan.
 - The requirements of the notice are to:
 - i. Remove window box from the Land,
 - ii. Remove the two awnings from the Land, and
 - iii. Ensure the front elevations (facing Victoria Street) of the buildings on the Land are reinstated to their condition before the breach of planning control took place (as shown in Appendix A).
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990, as amended, (the Act). 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.
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Decisions

Appeal A

1. In relation to Appeal A, it is directed that the enforcement notice be varied by:
 - At Section 6 of the enforcement notice, deletion of the words “*For requirements i and ii above, seven days after this notice takes effect.*” and deletion of the words “*For requirement iii above,*” so that the time period for compliance with all the requirements is 28 days.
2. Subject to this variation, 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.

Appeal B

3. Appeal B 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.

Preliminary Matters

4. Whilst the appeals relate to separate enforcement notices, different alleged breaches of planning control, and they are proceeding on different grounds of appeal, they concern the same appellant, buildings, and land. Therefore, to minimise duplication and repetition, I have dealt with them together in one decision letter.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024 and it is a material consideration in the determination of planning and enforcement appeals. Further amendments were published on 7 February 2025. However, the revisions and amendments to the Framework are not material to the matters raised in this appeal.

Background

6. 19 and 21 Victoria Street are mid-terraced properties located within Windermere’s Primary Shopping Area. They are also located within the Windermere Conservation Area. In April 2016, under planning permission reference 7/2016/5113, planning permission was granted for the change of use of No.21

from retail to use as a café. Subsequently, in April 2018, under planning permission reference 7/2017/5792, planning permission was granted for the change of use of No.19 from residential to a mixed use of café and retail, subject to conditions.

7. In summary, condition 5 of the April 2018 consent required the submission and approval of details of a dividing wall between nos.19 and 21 and the details of any heating, lighting, and chairs and tables prior to the use of the external seating area to the front of No.21. Condition 6 of the same consent prohibited the placing of tables, chairs and seating to the front of No.19 at any time, and condition 8 required the submission and approval of details for a self closing [sic] front door, and its subsequent installation and maintenance. The reason given for these conditions was in the interests of protecting the amenity of the occupiers of the adjacent dwelling 17 Victoria Street.
8. It appears to the Local Planning Authority (LPA) that these conditions have not been complied with because no details have been submitted to and approved by the LPA and yet chairs, tables, seating, heating and lighting have been installed to the front of both properties, contrary to the requirements of both conditions 5 and 6. Furthermore, no details of the self-closing front door have been submitted to and approved by the LPA, and no such door has been installed, as required by condition 8. The appellant does not dispute that there has been a failure to comply with the requirements of these conditions.

Appeal A: APP/Q9495/C/23/3334529

The appeal on ground (c)

9. The appeal is that the matters stated in the notice do not constitute a breach of planning control. The thrust of the appellant's argument in this regard is that condition 8 is invalid, and therefore unlawful, because it does not specify precisely where the self-closing front door should be installed. In addition, they assert that a self-closing mechanism exists on an inner door and that this is acceptable. This latter point is primarily a ground (a) argument, and so I will address it as such.
10. Section 70 of the 1990 Act gives local planning authorities a wide discretion to impose such conditions as they think fit. The legal, or *Newbury*¹, tests for conditions dictate that in order for a condition to be valid it must be imposed for a planning purpose, fairly and reasonably relate to the development permitted, and not so unreasonable that no reasonable planning authority properly conducting itself could have imposed it. The policy tests for the imposition of conditions are set out in both the Framework and the Planning Practice Guidance (PPG). However, the legal and policy tests are not the same, and failure to meet all or some of the latter does not necessarily render a condition invalid.
11. When seeking to understand planning conditions, consideration should be given to the natural and ordinary meaning of the words there used, viewed in their particular context, and in light of common sense. In this case, condition 8 stipulates a requirement for a '*self closing front door*'. To my mind, the obvious and only natural interpretation is that this requirement relates to the door on the front elevation of the property. The property being 19 Victoria Street, which is the

¹ *Newbury DC v SSE & Others* [1980] 2 WLR 379, [1981] AC 578, and affirmed by the Supreme Court in *R (oao Wright) v Resilient Energy Severndale Ltd & Forest of Dean DC* [2019] UKSC 53.

subject of the planning permission, as stated on the decision notice. There is only one door to the front elevation of 19 Victoria Street, and therefore there can be no ambiguity in this regard. Beyond this, the appellant has not set out any substantive argument as to why the condition does not meet the relevant legal tests, as set out above.

12. Drawing these points together, the condition is not imprecise as to be unreasonable. On this basis the condition has not been shown to be invalid and so it follows that a breach of planning control can arise from any failure to comply with its requirements. Details have not been submitted, as required by the condition, and therefore a breach of planning control has occurred.
13. For these reasons, the appeal on ground (c) does not succeed.

The appeal on ground (a)

14. The ground of appeal is that planning permission ought to be granted for the matters stated in the notice as a breach of planning control. Therefore, in this case, planning permission is sought for the mixed café and retail use of the property without compliance with conditions 5, 6, and 8 of the April 2018 planning permission.
15. From a review of the evidence before me, I consider the main issues to be whether the disputed conditions are reasonable and necessary having particular regard to:
 - The living conditions of the occupiers of No.17 Victoria Street, with regard to noise and disturbance; and,
 - The requirement to preserve or enhance the character or appearance of the Windermere Conservation Area, and linked to that, its effect on the Lake District National Park and the outstanding universal value of the English Lake District World Heritage Site.

Living conditions

16. The appeal site is located within the Windermere Primary Shopping Area (PSA), as defined by Policy 17 of the Lake District National Park Local Plan 2020-2035 (the Local Plan) which seeks to support proposals that maintain and enhance the vitality and viability of such areas. The Windermere PSA is characterised by a wide variety of typical town centre uses, including cafés, public houses, restaurants, and shops, which combine to create a busy and vibrant urban environment.
17. Victoria Street leads out of the town centre and includes a mix of both commercial and residential properties. Accordingly, the area surrounding the appeal site is less busy and has a more sedate character. At such locations a balance must be struck between the competing interests of promoting a vibrant town centre and maintaining suitable living conditions for existing and future residential occupants.
18. The proposal would allow for the retention of an outdoor seating area immediately adjacent to No.17 Victoria Street, a two-storey residential property, with only a timber wall and planting separating the two areas. The nature of the outdoor seating area to the front of No.19 is such that gatherings of people in this area would give rise to noise generating activities such as talking, raised voices, laughter and the movement of furniture, glasses and crockery.

19. These noise levels are likely to be exacerbated by customers being in high spirits and therefore levels of conversation being increasingly audible through either a number of voices being raised at any one time or louder individual voices. These effects would be particularly acute on long summer days with good weather, when the area would attract greater numbers of people for much of the day and into the late evening when neighbouring residents are likely to have windows open and therefore more receptive to noise. I also note that the café is open until 11pm each day and therefore levels of noise would be experienced by the neighbouring occupants well beyond a time at which residents could reasonably expect lower levels of background noise and disturbance. It is suggested that the seating area is not used beyond 10pm, but the appellant has not put forward a condition that would restrict its use, or demonstrated how they might ensure the area is vacated, even if such a restriction were considered to be sufficient to protect the living conditions of the occupiers of No. 17.
20. The appellant states that they are not aware of any complaints having been made in relation to noise or disturbance from the appeal site. However, this is contradicted by the LPA who advise that its enforcement investigation was triggered by a complaint about noise from customers using the outdoor space adjacent to No.17. Furthermore, as part of the appeal process, a local resident has also raised concerns in relation to noise and disturbance from customers using the outdoor seating area.
21. It is argued that sufficient controls exist under the Control of Pollution Act to enable the local council to take action if a statutory nuisance were to develop as a result of the operation of the outdoor seating area. Nevertheless, the Framework requires that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. To my mind this is a higher standard, and in any event, it would not be appropriate to rely on another regulatory regime to manage undesirable effects resulting from a planning decision. It is also suggested that sufficient management procedures are in place to deal with any issues that might arise, but I have not been provided with the details of these procedures and so it has not been demonstrated that they are a suitable means of mitigating the effects I have identified.
22. I appreciate that the site is located within a busy town centre environment where there is a general hustle and bustle of commercial activities and associated background noise. Nevertheless, the living conditions of neighbouring occupiers must be safeguarded and maintained to a high standard. Furthermore, the appellant has not put forward any alternative conditions that might curtail the activities at the site or reduce their adverse effects so as to ensure acceptable living conditions for the neighbouring occupiers.
23. Turning to the requirement for a self-closing front door, the front door of No.19 immediately leads to a staircase. Adjacent to this front door is an internal door leading to the main café area which does have a self-closing mechanism attached. However, this arrangement could allow the front door to be left open and would therefore allow noise to escape from the property. Also, there is nothing to require the maintenance of the existing self-closing mechanism on the internal door, so it could be removed at any time.
24. Compliance with the disputed conditions would provide a degree of separation between the outdoor seating area to the front of No.21 and No.17, along with other

safeguards (a self-closing door and a dividing wall) that would minimise noise and disruption.

25. Bringing all these points together, I find that the proximity of the proposal to the neighbouring residential property at No.17 Victoria Street to be such that, in the absence of compliance with the disputed conditions, there would be a significant harmful effect on the living conditions of the existing and future occupiers of this residential property. This would be contrary to Policy 06 of the Local Plan and the associated provisions of the Framework, as cited above, which together seek to ensure that development does not have an unacceptable impact on the amenity of adjoining residents. Therefore, the disputed conditions are reasonable and necessary to safeguard the living conditions of the neighbouring occupiers.

Character and appearance

26. The appeal site is located within the Lake District National Park, a designated landscape of national importance which attracts the highest status of protection. In addition, the site also falls within English Lake District World Heritage Site (the WHS), an internationally designated heritage asset of the highest significance.
27. 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 exquisite landscape is a result of the unique fusion of natural features and human settlement. Indeed, the traditional built environment of the historic market towns and villages of the Lake District, including Windermere, are integral and authentic elements of the cultural landscape and illustrate different facets of the evolution of settlement in the area as it responded over time to changing societal, economic and cultural forces. As such, its historic townscapes and their distinctive architectural vernacular are an important component of the Outstanding Universal Value (OUV) of the WHS and make an important and significant contribution to the character and local distinctiveness of the Lake District.
28. Furthermore, the landscape of the Lake District is not just defined by its topography and natural features, but also by the form and character of the traditional buildings that contribute to its distinctive built environment, which is an important contributor to the local landscape and its scenic beauty. Paragraph 189 of the Framework affords the highest status of protection in relation to these matters, and Policy 06 of the Local Plan stresses the importance of local character.
29. The appeal site is a mid-terrace property located within the Windermere Conservation Area (WCA). The significance of the WCA is in part derived from the architectural and historic interest of the area's buildings, which initially grew from a tiny settlement clustered around an isolated railway terminus in an open rural landscape. These early buildings are good examples of typical provincial Victorian and Edwardian architecture, utilising local materials that create a distinctive Lakeland identity.
30. Victoria Street, including the appeal property, was laid out in the mid-19th century as part of a rapid expansion of the town following the arrival of the railway and the need to accommodate a growing population and increasing numbers of visitors. The appeal building forms part of a row of former cottages built in a typical, yet simple, Lakeland Victorian architectural style, utilising both local stone and slate.

Whilst not a listed building, the WCA Appraisal and Management Plan, 2011, identifies the appeal property as a building of special character. Despite some modern interventions, I agree that it is a good example of a historic building that is typical of its era and positively adds to the quality and character of the built environment. In these regards, the appeal property and its surroundings make a positive contribution to the significance of the WCA, the WHS and the surrounding townscape.

31. The development, without compliance with the disputed conditions, has introduced a seating area to the front of Nos 19 and 21. Largely comprising of fixed seating made from what appears to be reclaimed timber planks and fixed metal framed tables, the seating area has a stark and visually discordant appearance that is at odds with the quality and local distinctiveness of the surrounding built environment. Furthermore, lighting and heating units have been installed around the seating area and on the front elevation of the building with what appears to have been limited consideration to good design principles, resulting in a restless composition of cluttered features that significantly detract from the simple traditional form and character of the original building. As such, the current seating area and its associated paraphernalia appear incongruous in the street scene.
32. For these reasons, I find that the development is harmful to the character and appearance of the WCA. It also follows that the development has, to a limited degree, harmfully diminished the positive contributions that the site previously made to the landscape quality of the national park and the OUV of the WHS. Consequently, I attribute considerable importance and weight to this harm.
33. With reference to paragraphs 214 and 215 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent and localised nature of the development, I find that the harm to the WCA and the OUV of the WHS to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, this harm is to be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
34. In this case the appellant has not presented any evidence of public benefits. It is suggested that without the outdoor seating area the business may be unviable, and this would have implications for local employment, but there is no substantive evidence before me in this regard. Consequently, the harm I have identified is not outweighed by any demonstrable public benefit and therefore the proposal clearly conflicts with the Framework's aim to conserve heritage assets in a manner appropriate to their significance.
35. To conclude on this main issue, without compliance with the disputed conditions, the development fails to preserve or enhance the character or appearance of the WCA, and it is harmful to the OUV of the English Lake District WHS. The development is therefore in conflict with Policy 07 of the Local Plan and the associated provisions of the Framework, which together seek to conserve and enhance the significance of heritage assets.
36. In the absence of the disputed conditions, the development would also fail to preserve the cultural heritage of the Lake District National Park in conflict with the statutory purposes for which it is designated, as prescribed by Section 5(1) of the National Parks and Access to the Countryside Act 1949, as amended. It therefore

follows that the proposal would not seek to further the statutory purposes of the protected landscape.

37. Therefore, the disputed conditions are reasonable and necessary in order to safeguard the character and appearance of the area.

Other matters

38. I note the correspondence from the Environmental Health 'Specialist' at Westmorland and Furness Council², but in relation to matters of noise and disturbance, I find their assessment and advice to be vague and ambiguous. I have therefore arrived at my own conclusion based on the evidence before me.
39. An outdoor seating area associated with the Queens Hotel exists to the rear of No.17. However, it is not clear if this benefits from planning permission. In any case, this does not justify the provision of further outdoor seating that would give rise to additional noise and disturbance to neighbouring occupiers.

Appeal A Conclusion on ground (a)

40. In failing to comply with the requirements of the disputed conditions, I have found the development to be harmful to the living conditions of the occupiers of No.17 Victoria Street, with regard to noise and disturbance. I have also found harm to the character and appearance of the WCA and the OUV of the WHS. The development also conflicts with the statutory purposes of the national park. In these regards, the development is contrary to the above cited policies of the development plan and no material considerations of sufficient weight have been advanced to overcome this.
41. Therefore, for the reasons given, I conclude that the appeal on ground (a) should fail, and that planning permission should be refused in respect of the deemed planning application.

The appeal on ground (f)

42. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve its purpose. The purposes of an enforcement notice are set out in Section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires compliance with the terms of conditions 5, 6 and 8, the purpose is clearly to remedy the breach of planning control that has occurred.
43. The appellant is of the view that there are sufficient management procedures in place to deal with any issues that may arise from the development and that there is no need for a dividing wall to be erected between No.21 and No.19. They also suggest that it is not necessary to remove the existing seating.
44. However, these points do not represent lesser steps that would achieve the purpose of the enforcement notice. This would not satisfy the requirements of the conditions and so would not remedy the breach of planning control.
45. Therefore, the ground (f) appeal must fail.

² Email from Peter Adams to Peter Winter at 13:18, 21 February 2024

The appeal on ground (g)

46. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is seven days for compliance with conditions 5 and 6, and 28 days for compliance with condition 8.
47. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with the requirements of the enforcement notice against the private interests bound up in the unauthorised development. In doing so, I acknowledge that the development is harmful to the living conditions of neighbouring residents, and it is also causing harm to designated heritage assets. It is, therefore, in the public interest to remedy the breach of planning control as soon as reasonably possible and without delay.
48. The four-month compliance period suggested by the appellant would be excessive having regard to the ongoing harm caused by the development. However, I accept that a seven day compliance period is too short. In my view, extending this period to the same 28 day period for compliance with the requirements of condition 8 would be proportionate and reasonable.
49. For these reasons, I conclude that a reasonable period for compliance would be 28 days, and so I will vary the enforcement notice accordingly.
50. To this limited extent, the ground (g) appeal succeeds.

Appeal B: APP/Q9495/C/23/3334530

The appeal on ground (a)

51. In pursuing an appeal on ground (a) planning permission is sought for the matters which constitute the breach of planning control, in this case the erection of a window box and the installation of two awnings.
52. Having reviewed the LPA's reasons for issuing the notice, I consider the main issues to be:
 - The effect of the development on the living conditions of the occupiers of No.17 Victoria Street, with regard to noise and disturbance, outlook, and light; and,
 - Whether the development preserves or enhances the character or appearance of the Windermere Conservation Area, and linked to that, its effect on the Lake District National Park and the outstanding universal value of the English Lake District World Heritage Site.

Living conditions

53. It can be seen from my reasoning in relation to Appeal A that I have found the seating area to the front of the appeal property to be harmful to the living conditions of the neighbouring occupiers at No.17 Victoria Street. The installation of awnings over this area creates a more hospitable environment for customers during periods of less-favourable weather, thereby increasing the potential use of the area, irrespective of whether seating is provided, and exacerbating the adverse effects I have found in terms of noise and disturbance.

54. However, having considered the position and size of the awnings, along with their orientation in relation to No.17, I am not concerned that they would result in a significant loss of outlook or light to No.17. In addition, there is no evidence before me to suggest that there would be an unacceptable increase in light pollution, and I note that there is no reference to lighting in the breach of planning control.
55. Consequently, I find that the development is harmful to the living conditions of the occupiers of No.17 Victoria Street, with regard to noise and disturbance. I do not find the development to be harmful to the living conditions of these neighbouring occupiers in relation to their outlook or light.
56. Therefore, the development is contrary to Policy 06 of the Local Plan and the associated provisions of the Framework, which together seek to ensure that development does not have an unacceptable impact on the amenity of adjoining residents.

Character and appearance

57. As part of my consideration of Appeal A, I have already set out the appeal site's context and the contribution it makes to the WCA, WHS and the landscape quality of the national park. Therefore, I will not repeat that here.
58. The development has resulted in the installation of two large awnings to the front of Nos 19 and 21 Victoria Street. Each awning is deployed and retracted using a manual mechanism. Above each awning and along their full length, a window box has been erected along with artificial flowers and foliage. Owing to their size and positioning on the elevation, they are visually prominent in the street scene.
59. The awnings and window box dissect the front elevation of the property between the ground and first floor of the building. In doing so, they harmfully disrupt the simple traditional architectural composition of the building, resulting in discordant features that visually detract from the character and appearance of the surrounding area. In addition, the awning to the front of No.21 is staggered, via the use of a timber frame, to step it forward to accommodate the bay window. This accentuates its discordant appearance and disrupts the architectural form of the bay window.
60. I acknowledge that the window boxes have been installed to hide the fixings of the awnings and that the planting of flowers may not involve an act of development. However, at the time of my site inspection, and from the photographic evidence submitted with the appeal, the flowers and foliage were in fact artificial, comprising plastic and fabric materials.
61. I have found that the development is harmful to the character and appearance of the WCA. It follows that there is also harm to the OUV of the WHS and the landscape quality of the Lake District. The harm to these heritage assets attracts considerable importance and weight. No public benefits have been advanced to outweigh this harm. Consequently, the development clearly conflicts with the Framework's aim to conserve heritage assets in a manner appropriate to their significance.
62. For these reasons, the development fails to preserve or enhance the character or appearance of the WCA and it is harmful to the OUV of the English Lake District

WHS. The development is therefore in conflict with Policy 07 of the Local Plan and the associated provisions of the Framework.

63. The development would also fail to preserve the cultural heritage of the Lake District National Park in conflict with the statutory purposes for which it is designated, as set out by Section 5(1) of the National Parks and Access to the Countryside Act 1949, as amended. It therefore follows that the development does not seek to further the statutory purposes of the protected landscape.

Other matters

64. In support of the appeal, the appellant has drawn my attention to permitted development rights set out in Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), which, in their view, would allow them to erect a movable “drinking shelter”. They consider that this could result in a more visually intrusive form of development than the current arrangement and so providing a fallback position that weighs in favour of allowing the appeal. They also suggest that this could compromise highway safety.
65. However, I have been provided with insufficient evidence to demonstrate that the appellant could achieve a similar form of development that would meet all of the conditions set out in the GPDO to qualify as permitted development. Therefore, I am unable to be sure that this represents a realistic prospect. In any case, I am not persuaded that this alleged fallback would result in similar or worse effects than the appeal proposal.
66. My attention is also drawn to the presence of other retractable awnings over commercial premises in the locality. From the examples provided, these all appear to form part of well-designed shop/café frontages. Consequently, they do not share the same site specific context to the appeal and are therefore not comparable.

Conclusion on ground (a)

67. The development is harmful to the living conditions of the occupiers of No.17 Victoria Street, with regard to noise and disturbance. I have also found harm to the character and appearance of the WCA and the OUV of the WHS. The development also conflicts with the statutory purposes of the national park. In these regards, the development is contrary to the above cited policies of the development plan and no material considerations of sufficient weight have been advanced to overcome this.
68. Therefore, for the reasons given, I conclude that the appeal on ground (a) should fail, and that planning permission should be refused in respect of the deemed planning application.

The appeal on ground (f)

69. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve its purpose.
70. The requirements are to remove the window box, remove the awnings, and to reinstate the buildings and land to their condition before the breach of planning control took place. It follows that the purpose of the notice is to remedy the breach of planning control that has occurred.

71. The appellant suggests that there are sufficient management procedures in place to deal with any issues that might arise, and that there is no need for the awnings to be removed. They indicate that the window box could be removed if it is found to be visually intrusive.
72. However, the appellant's suggested alternatives would not fully remedy the breach of planning control and so they do not represent lesser steps that would achieve the purpose of the notice.
73. Consequently, the ground (f) appeal cannot succeed.

The appeal on ground (g)

74. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is three months.
75. The appellant seeks to extend this to a period of four months to take account of the physical works involved, they also suggest that consideration would also need to be given to the viability of the business in the absence of the outdoor seating area. Beyond this commentary, there is little evidence to demonstrate why an extended period is sought or why the requirements could not be achieved within the specified period of three months.
76. Consequently, extending the compliance period would perpetuate the breach of planning control and the associated harm, without sufficient justification. Therefore, in weighing the balance between public and private interests, I consider that the public interest of expeditious compliance with the requirements of the enforcement notice outweighs the private interest in extending the period for compliance.
77. I am, therefore, not persuaded that there is a need to extend the period for compliance with the requirements of the notice, and I am satisfied that the period of compliance stated in the notice is a proportionate response to the breach of planning control that has occurred.
78. Accordingly, the appeal on ground (g) fails.

Overall Conclusions

79. For the reasons, given above, I conclude that the appeals should not succeed.
80. For Appeal A, I shall uphold the enforcement notice, with a variation, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.
81. For Appeal B, 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