



Appeal Decision

Site visit made on 3 June 2025

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

an Inspector appointed by the Secretary of State

Decision date: 30 September 2025

Appeal Ref: APP/Q9495/C/24/3350182

Land at Nicholas Coppice, Red Bank Road, Grasmere, Ambleside LA22 9PY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Stephen Cardwell of Generator Power Limited against an enforcement notice issued by Lake District National Park Authority.
 - The notice was issued on 10 July 2024.
 - The breach of planning control as alleged in the notice is without planning permission, operational development consisting of alterations to an access, excavation to reduce ground levels and installation of a hardstanding.
 - The requirements of the notice are to restore the land to its condition before the breach took place by:
 1. Removing the crush slate and concrete from the land; and
 2. Removing the drainage pipes from the land; and
 3. Restore the ground level; and
 4. Reduce the width of the access, by rebuilding the stone boundary wall, to match the existing walls in terms of material, height and appearance.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.
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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.

Preliminary Matters

2. 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 minor amendments were published on 7 February 2025. This post-dates the enforcement notice. However, the Framework's provisions in relation to the matters raised in this appeal are substantially unchanged.
3. As part of their argument in relation to ground (f), the appellant challenges the validity of the notice. They contend that the requirement to 'restore the ground level' is vague because there is no indication of what the ground level should be restored to, and that the ground level in the photo appended to the notice is not clear due to vegetation cover. The underlying suggestion being that the notice does not tell the recipient, with reasonable certainty, what must be done to remedy the breach.
4. The requirements are preceded with the words 'restore the land to its condition before the breach took place by...'. To my mind it is clear that, when read together, the ground level should be restored to the level that was present before the breach

occurred. Furthermore, the appellant will be best placed to know the previous condition of the site and so should have a good understanding of its prior condition. Therefore, I find no uncertainty in this regard and so the notice is neither invalid nor null in this respect.

The appeal on ground (a)

5. The appeal on ground (a) is that planning permission ought to be granted for the matters alleged in the notice. Therefore, the appellant seeks to retain the alterations to the access, including the excavation works and the hardstanding as it currently exists.
6. From a review of the evidence before me, the main issues are:
 - The effect of the development on the character and appearance of the area, with particular regard to the site's location within the Lake District National Park and the English Lake District World Heritage Site;
 - The effect of the development on highway safety;
 - Whether adequate arrangements have been made for surface water drainage; and,
 - The effect of the development on biodiversity.

Reasons

Character and appearance

7. 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 189 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.
8. 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.
9. Grasmere and its surroundings form a landscape of exceptional scenic and natural beauty. The appeal site is immediately adjacent to the public highway along Red Bank Road and is part of wider hillside of deciduous woodland that overlooks the south-western shore of Grasmere. Prior to the recent development, the site was largely undeveloped and free from built form. Whilst a relatively small site, its undeveloped and verdant woodland character made a positive contribution to the quality of the wider surrounding area, reinforcing its scenic and natural beauty. In doing so, the site made a positive contribution to the landscape quality of the area and, by extension, contributing the OUV of the WHS.

10. The development has resulted in the partial excavation of the hillside to create an improved vehicular access to the adjacent highway, along with the introduction of slate chippings and concrete to provide an area of hardstanding. The boundary wall has also been altered to widen the access, and a larger 5-bar timber gate has been installed.
11. Whilst a 5-bar timber gate is not an unusual feature in this area, the excavation, introduction of hardstanding, and widening of the gateway has resulted in a stark and visually prominent form of development. This has replaced natural vegetation with a considerable area of hardstanding. I note that the hardstanding has been laid with stone chippings that are used in other areas of the National Park. Nevertheless, at this location it appears as an incongruous intrusion into an area of land that was previously largely free from development and so is at odds with the site's verdant woodland surroundings.
12. Moreover, the concrete apron which abuts the highway is a particularly discordant feature which visually detracts from quality of the surrounding area. I appreciate that concrete may be used locally to facilitate access to domestic properties. However, that does not justify its use for the appeal site, the context of which is a woodland setting.
13. Public views of the site are generally limited to those experienced when travelling along the adjacent public highway. Nevertheless, this is well used by both vehicles and walkers. Therefore, to those passing, the development appears as a visually prominent and discordant feature in an otherwise high-quality landscape of exceptional value.
14. The appellant claims that the improved access and parking area are required for the ongoing management of the woodland. However, beyond this statement there is little evidence to demonstrate why the development is needed at this location. It is also worth noting that the woodland has been owned and maintained by the appellant for a number of years without the need for the development.
15. For these reasons, I find that the development has a harmful effect on the character and appearance of the surrounding area. In doing so, the development has substantially diminished the positive contribution the site previously made to the landscape quality of the Lake District and the OUV of the WHS.
16. Due to the scale of the development and its localised effects, the harm to the OUV of the WHS would be less than substantial. Nevertheless, this is of considerable importance and weight. Under such circumstances the Framework requires me to weigh the harm against the public benefits of the proposal.
17. The appellant has not put forward any public benefits. It is suggested that the development would provide safe parking to facilitate the ongoing management of the woodland. However, there is limited evidence before me to support this claim. 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.
18. To conclude on this main issue, the development has a harmful effect on the character and appearance of the area, with particular regard to the site's location within the Lake District National Park and the English Lake District World Heritage Site. It is therefore contrary to Policies 01, 02, 05 and 06 of the Lake District

National Park Local Plan 2020-2035 (the Local Plan) 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, and to achieve design excellence.

19. In addition, and for the same reasons, the development would fail to conserve and enhance the natural beauty and wildlife of the Lake District National Park, and therefore in conflict with the statutory purposes for which it is designated. Consequently, the development would not seek to further the statutory purposes of the protected landscape.

Highway safety

20. The former gateway has been improved to provide a larger access to the highway to accommodate modern vehicles and machinery. Photographic evidence indicates that prior to the development, vehicular access was likely not possible due to the width of the gateway and profile of the land in relation to the carriageway. The development now enables direct vehicular access onto the adjacent public highway along Red Bank. The excavation works and laying of crushed slate has also provided an area of hardstanding immediately within the gateway to provide space for parking a vehicle.
21. Red Bank is a narrow and winding road that traverses the rising hillside to the southwest of Grasmere. This is a busy road where visibility is restricted in parts due to both the horizontal and vertical alignment of the highway.
22. The visibility from the appeal site is limited, particularly in views to the north, and therefore drivers leaving the site would likely be unable to see oncoming traffic until they had manoeuvred a large part of their vehicle onto the highway. This gives rise to the risk of collisions with oncoming vehicles, including cyclists and other vulnerable road users. This safety issue is compounded by the fact that vehicles are unable to turn within the site and therefore this could result in vehicles reversing into or out of the site with limited visibility. I also note that the gate has been hung in such a way that it opens over the highway, resulting in further highway safety concerns.
23. The development has come about to provide offroad parking provision to avoid the need for vehicles and machinery to park on the highway. However, that does not justify the creation of an unsafe vehicular access. Furthermore, the appellant has provided no substantive evidence to demonstrate acceptable levels of visibility or that the access would be safe to use.
24. For these reasons, I find that the development has an unacceptable adverse effect on highway safety. It therefore conflicts with Policy 06 of the Local Plan, which, amongst other things, states that development must create safe and accessible environments.

Surface water drainage

25. Policy 03 of the Local Plan requires all developments to demonstrate how surface water run-off will be discharged in accordance with the surface water hierarchy, including where practicable, Sustainable Drainage Solutions. The Planning Practice Guidance (PPG) identifies the following hierarchy of drainage options for dealing with surface water from development: 1) into the ground (infiltration); 2) to

a surface water body; 3) to a surface water sewer, highway drain, or other drainage system; or 4) to a combined sewer.

26. Prior to the development in this case, the land sloped towards the highway and so surface water would have likely flowed towards the highway. However, the works have included the laying of drainage pipes to direct surface water away from the newly created area of hardstanding. While the slate chippings will allow water to infiltrate, the combination of excavation works, removal of vegetation cover, and the laying of drainage pipes will have increased the speed and flow of surface water from the site and the surrounding land.
27. The appellant has provided no evidence to demonstrate how the hierarchy of drainage options has been followed, or whether the installed drainage option is appropriate, and does not give rise to, or contribute to, off-site surface water flooding.
28. Consequently, it has not been demonstrated that adequate arrangements have been made for surface water drainage. Therefore, the development conflicts with the aforementioned requirements of Local Plan Policy 03, and the associated provisions of both the Framework and the PPG in relation to surface water drainage.

Biodiversity

29. The appeal site forms part of Red Bank and Deerbolts Woods, an Ancient Semi-Natural Woodland, and Hunting Stile Wood County Wildlife Site. Paragraph 193.c) of the Framework states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
30. There is limited information before me as to the ecological value of the appeal site, or to assess the effect of the proposal on biodiversity. Nevertheless, the appellant acknowledges that vegetation, including an area of rhododendron, has been cleared from the site to accommodate the development. From my own observations, the excavation works have removed a significant quantity of earth and artificially reduced the ground level. Coupled with the introduction of aggregate materials and concrete, this appears to have, in effect, sterilised a part of the woodland habitat.
31. The appellant asserts that these works have been carried out as part of the wider management of the woodland and that the area around the parking space will be planted with appropriate native species. However, there is little evidence before me to support this.
32. Furthermore, I have been provided with no exceptional reasons for the loss of the area of woodland habitat or a suitable compensation scheme to mitigate its loss.
33. Despite the lack of evidence on this issue and noting the Framework's strong policy impetus for the protection and enhancement of biodiversity and geodiversity, I must take a precautionary approach. Consequently, it appears that part of the woodland habitat has been lost as a result of the development, without exceptional reason, and so, in the absence of evidence to the contrary, it has not been demonstrated that the proposal has an acceptable effect on biodiversity. Therefore, I find it to be harmful in this regard. The proposal would therefore

conflict with the Framework's aim of conserving and enhancing the natural environment.

Ground (a) Conclusion

34. I have found the development to be harmful to the character and appearance of the surrounding area, along with localised harm to the landscape of the Lake District and the WHS. In these regards, the development also conflicts with the statutory purposes of the national park. I have also found that the development poses a significant and unacceptable risk to highway safety and it has not been demonstrated that adequate arrangements have been made for surface water drainage. Finally, I have also found harm to biodiversity.
35. In these regards, the development is contrary to the above cited policies of the development plan and associated national policies. No material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan.
36. For these reasons, I conclude that the appeal on ground (a) should fail and therefore planning permission is refused in respect of the deemed planning application.

The appeal on ground (f)

37. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve its purpose. Section 173(4) of the 1990 Act sets out that the purpose of an enforcement notice can be: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach.
38. In this case, the notice requires the appellant to restore the land to its previous condition before the breach took place by: 1) removing the crushed slate and concrete from the land; 2) removing the drainage pipes from the land; 3) restoring the ground level; and, 4) reducing the width of the access, by rebuilding the stone boundary wall, to match the existing walls in terms of material, height and appearance. It follows that the purpose of the notice is to remedy the breach of planning control that has occurred, and as explicitly stated in the notice.
39. The appellant suggests that if the crushed slate and concrete are found to be harmful, an alternative could be to replace this with an alternative more suitable material. They are also of the view that it is not necessary to reduce the width of the access and that the existing gate should be retained. However, no alternative surface materials have been suggested, and if I were to accept the appellant's suggestions this would result in part of the development being retained. Therefore, this would not remedy the breach or restore the land to its previous condition.
40. The appellant also claims that it is not clear what drainage pipes are being referred to and that there is no mention of the installation of drainage pipes in the alleged breach. Nevertheless, photographic evidence¹ clearly shows the installation of drainage pipes as part of the development. Furthermore, I am satisfied that these drainage pipes constitute part of the installation of hard standing that is cited as part of the breach of planning control. Therefore, requiring their removal is not excessive.

¹ LPA Statement, Enclosure A – Photographs dated 7 September 2022

41. I have also given consideration as to whether there are any other suitable alternatives to the requirements stated in the notice which would achieve the purpose of the notice with less cost or disruption to the appellant, but none are obvious to me.
42. For these reasons, I conclude that the requirements of the notice are not excessive, and so the appeal on ground (f) must fail.

Conclusion

43. For the reasons given above, 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