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# Appeal Decision

Hearing held on 11 June 2024

Site visit made on 12 June 2024

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 July 2024**

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**Appeal Ref: APP/Q9495/W/24/3338028**

**Land to the north of Rosthwaite Farm, Windermere LA23 3LX**

- 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 Low Moor Howe Farm Ltd against the decision of Lake District National Park Authority.
  - The application Ref is 7/2023/5102.
  - The development proposed is described as a farm diversification scheme including the siting of lodge-style caravans for holiday use and associated works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A revised drainage scheme and lighting assessment with related plans were submitted with the appeal. These showed new details including an attenuation pond outside the site boundary, annotation of inevitable cut and fill along the route of the access road, lighting, and signage. Whilst the submission of these details was protested, the Authority and Lead Local Flood Authority each considered that they were matters which could be suitably addressed through the imposition of conditions. I am otherwise satisfied that interested parties had the opportunity to view and to comment on these documents within the context of the appeal process. I have therefore taken the revised drainage scheme and lighting assessment into account in assessing the appeal, noting scope for further modification.
3. A revised access plan and draft Unilateral Undertaking (UU) were presented at the Hearing itself. This was again protested. Insofar as the access plan sought to revise the red line and to harmonise details shown on the various plans submitted with the application and appeal, the parties subsequently agreed that no such plan was in fact required. Again, the matters in question can be appropriately addressed by condition. As the UU was offered as an alternative to a condition proposed by the Authority, I consider its submission uncontentious, albeit the parties were unable to agree its content.

## Main Issues

4. The main issues are:
  - the effects of the development on the character and appearance of the area including the Lake District National Park (the National Park), the English Lake

District World Heritage Site (the World Heritage Site), a Grade I listed building, and the associated Registered Park and Garden (the Registered Park);

- whether the development would contribute to the diversification of an agricultural or land-based business, and if so, whether it do so in an acceptable way; and
- whether the development could be appropriately drained.

## **Reasons**

### *Character and appearance*

#### *(a) Background*

5. The site is located in the National Park, within which I must seek to further the purposes of its designation. These include its first purpose, which is conserve and enhance natural beauty, wildlife, and cultural heritage. The National Planning Policy Framework (the Framework) similarly establishes that great weight should be given to conserving and enhancing landscape and scenic beauty within National Parks, as too wildlife and cultural heritage. The latter is itself a focus of the overlapping World Heritage Site, which the Framework identifies as a designated heritage asset of the highest significance.
6. Blackwell, a Grade I listed former country house (the listed building), and the Grade II Registered Park which surrounds it are located on rising ground to the north of the site. Each form components of the cultural heritage of the National Park, and contribute to the Outstanding Universal Value (OUV) of the World Heritage Site. Whilst I am required to have special regard to the desirability of preserving the setting of the listed building, insofar as the World Heritage Site, listed building and park are all designated heritage assets, the Framework again indicates that great weight should be given to their conservation.

#### *(b) Context*

7. The site occupies an elevated position on the east side of Lake Windermere. It falls into 2 main parts extending southwards across a reasonably long distance between the B5360 and the cluster of residential and equestrian buildings at Rosthwaite Farm. These 2 parts are linked by the narrow lane (the lane) which connects Rosthwaite Farm with the B5360. Whilst the northern part of the site falls within 2 fields on rising ground between the lane and the B5360, the southern part covers land within a series of steeply sloping fields to the north of Rosthwaite Farm.
8. Development at Rosthwaite Farm is well clustered and occupies an isolated location which is clearly separated from dwellings adjacent to the B5360, development along the east edge of Lake Windermere, and from other scattered dwellings within the vicinity. Within this context the site presents itself as a broad stretch of open countryside, whose tranquillity rapidly grows with distance from the B5360.
9. Given their separation and the effects of topographical variation, the 2 parts of the site exhibit some differences in terms of visual exposure and setting. Each part nonetheless similarly adjoins or lies adjacent to other open fields which, like them, are generally enclosed with a mix of stone walls, hedges and fences.

These fields are likewise grazed by a mix of livestock and horses. The immediate settings additionally include well established clumps and belts of trees, which also feature within the broader landscape. As such the fields comprising the 2 main parts of the site are perceived as consistent components of the broader agro-pastoral landscape. Whilst the latter again contributes to the OUV of the World Heritage Site, it also forms a key component of the natural beauty of the National Park.

10. The positive role the site plays is appreciable from multiple public viewpoints. This is notwithstanding some screening of the southern part of the site by landform and trees, and the fact that it is impossible to view the site as a whole from the ground. In relation to the northern part of the site, vantage points are provided all along the footpath which crosses it, the lane, which is itself a public right of way, and the B5360. In relation to the southern part of the site vantage points are more limited but again include the lane, together with higher ground to the south of Rosthwaite Farm. Parts of the site additionally form very minor but nonetheless discernible components of eastward views across Lake Windermere.
11. Much of the northern part of the site is directly intervisible with the southern part of the park surrounding Blackwell. Part of the hillside included within the northern part of the site additionally forms a focal point within the view looking south from the terrace constructed on the west side of the house. Insofar as it is relevant, the special interest and significance of Blackwell resides in its Arts and Crafts design and careful positioning within the landscape. Within this context the surrounding park provides a designed transition between the house and its broader landscape setting. This type of purposeful augmentation of landscape beauty is also identified as an attribute contributing to the OUV of the World Heritage Site. As this is partly exhibited in the relationship between the park and the northern part of the site, it is an attribute which is readily appreciated within the above identified views. Notwithstanding the fact that planting within the park currently obstructs views from and towards the south front of the house itself, for above reasons the northern part of the site plays a small but important role within its setting.

(c) *Assessment*

*Northern part of site*

12. The new access road formed within the northern part of the site would cut across the hillside rising above the B5360. As noted above, this would require considerable cut and fill in order to provide a suitable surface and camber. A degree of screening would be introduced through planting and enclosure by walls and hedges. The new road, together with associated landscaping and drainage works would nonetheless have a transformative effect on the character of the fields through which it would pass. This would be expressed in terms of the loss of existing form, openness, composition, and use of the parts in question. Given that the existing value of the northern part of the site lies in its consistency with the broader agro-pastoral landscape of the National Park and World Heritage Site, and the role it plays within the setting of Blackwell, such change would be harmful to each.
13. In relation to Blackwell the change would directly undermine the ability to appreciate the intended interaction between the park and its landscape setting. It would thus also undermine perception of the contribution that this makes to

the OUV of the World Heritage Site and cultural heritage of the National Park. It follows that it would, albeit in a more limited way, undermine appreciation of the significance of Blackwell's positioning within the landscape. Consequently, the setting of the listed building would not be preserved.

14. Whilst lanes are an established component of the existing landscape, and local references might be found for landscaping of the type proposed, this would not alter the harm identified above. In this case, the cumulative visual effects of the additional road infrastructure as viewed alongside both the lane and B5360 would accentuate the harm identified.

*Southern part of the site*

15. A second access road would be formed to serve the southern part of the site which would host the proposed caravans. As the caravans would be positioned on steeply sloping ground on the opposite side of a north-south ridge running roughly parallel with the lane, limited views would be available from this vantage point. Users of the lane would however be aware of the access, of vehicles using it, and of inevitable noise generated by the occupants of the caravans a short distance to the west. Occupancy and activity would be furthermore highlighted at night by artificial light sources, only limited control over which could be secured by condition. In each of these ways existing tranquillity would be harmfully reduced.
16. Despite some intervening trees, caravans would be visible from higher ground to the south. Their visibility would not be significantly altered by the materials from which they might be constructed, particularly when taking parked vehicles into account. From this location the caravan site would form a minor component of the expansive views available, but one relatively close at hand. As the caravan site would be seen to sprawl northward from Rosthwaite Farm, it would increase the perceived presence of development within the agro-pastoral landscape. This could again be further accentuated by noise and light. These effects would be far less perceptible in views across Lake Windermere, but given that parts of the site are currently discernible as open land, the changed use of the site would nonetheless have a very subtly erosive effect. Again therefore, the development would harmfully diminish the positive and consistent contribution that the southern part of the site makes to the character of the agro-pastoral landscape of the National Park and World Heritage Site.

*Site as a whole*

17. As the proposed landscaping and drainage works would provide some new and/or enhanced habitats for wildlife, this would support one component of the first purpose of the National Park's designation. It remains the case however that the scheme's principal focus is the provision of a caravan site. And any minor, somewhat incidental benefit to wildlife would not outweigh the harm caused to the natural beauty and cultural heritage of the National Park. The potential benefits of landscaping and drainage work to wildlife would not therefore alter the overall acceptability of the scheme.
18. As the purposes of the National Park's designation also include promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public, the development could again assist, at least in relation to hosting paying visitors. Whilst it is clearly apparent that

understanding and enjoyment can each be promoted in far more sensitive ways, greater weight is in any case attached to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park, in relation to which my findings above indicate that the scheme would fail.

19. Tourism is acknowledged to play an important role within the OUV of the World Heritage Site. But whilst particular emphasis is placed on historical influences, development pressures from tourism are noted as a more current concern. The harm giving rise to such concern is demonstrated by the proposed development. The fact that other caravan sites currently exist elsewhere within the World Heritage Site has little bearing on the harm that I have identified.

(d) *Summary*

20. My findings indicate that the appeal scheme would harm the character and appearance of the area. It would conflict with the purposes of the National Park's designation, fail to conserve the significance of the World Heritage Site, fail to conserve the important role played by the site within the setting of the Registered Park, and fail to preserve the setting of the listed building. The harm caused to the significance of designated heritage assets would in each case be less than substantial. This harm attracts great weight in the case of the park and World Heritage Site, and considerable importance and weight in the case of the listed building. In accordance with the Framework, it is necessary to balance the above harm against the public benefits of the scheme. This is a matter I shall return to below following consideration of the other main issues.

*Diversification*

21. Policy 19 of the Lake District National Park Local Plan 2020-2035 (the Local Plan) identifies 2 main objectives of diversification. These are helping to sustain the rural economy and communities, and the character of the landscape. Under the bracket of 'agricultural and land-based rural business' it makes a distinction between agricultural businesses and privately managed estates. Given some potential overlap, the distinction is one based on the scale and composition of the enterprise in question. Here the Local Plan glossary defines a privately managed estate as a landholding which can include both property and land in a single ownership.
22. Some uncertainty has been expressed in relation to the nature of the appellant's business. As was clarified at the Hearing, the appellant, Low Moor Howe Farm Ltd, is a business entity which runs operations on its extensive landholding from High House Farm. Rosthwaite Farm, as described above, is not an operational farm, but forms part of the wider landholding. Property both here and elsewhere is let out. Whilst the primary activity within the landholding is otherwise described as agricultural, various other activities also take place. As such, for the purposes of Policy 19, the enterprise in question can be most comfortably described as a privately managed estate.
23. Policy 19 requires that where diversification proposals involve privately managed estates, they should be presented within the context of a Whole Estate Plan which delivers and secures multiple public benefits. Given that none has been submitted, direct conflict arises with Policy 19. Though officers considered that such a plan was not necessarily essential, its absence clearly provides less certainty.

24. Losses have been a long-standing feature of the business, and as is not unusual locally, there has been some past reliance on subsidies. Though much of the income generated by the scheme would be taken by the operator of the caravan site, the parties have offered 2 alternative means, a condition and UU, by which at least some would be fed back into the business. This would place the business on a sounder footing moving forward. The scheme might additionally generate a small number of additional jobs and provide a minor source of additional cash flow within the local economy.
25. The specific use to which the income generated would be put by the estate is however unclear, and this is not a matter covered by either the proposed condition or UU. It is however presumably a matter which might have been addressed within a Whole Estate Plan, whose implementation might then have been secured.
26. Land owned by the appellant includes a Site of Special Scientific Interest (SSSI), and, in common with others who farm locally, the appellant's agricultural activities help to sustain the agro-pastoral landscape. Though it is claimed that continued management of each requires the additional income that would be provided by the scheme, there is again no certainty that either would directly benefit. I have on the hand already separately established the harm that the scheme would cause to the agro-pastoral landscape.
27. The above being so, I am satisfied that the scheme would represent a further diversification of the activities already engaged in by the estate, which would additionally provide very modest social and economic benefits to the locality. However, whilst the scheme would thus meet one of the headline objectives of diversification set out within Policy 19, it would fail the objective of also sustaining the character of the landscape.
28. The proposed form of diversification is itself a type governed by Policy 18 of the Local Plan. Direct conflict with its requirements would again arise given the scheme's inconsistency with landscape character, as too the need for new infrastructure capacity to support it.
29. For the reasons outlined above I conclude that whilst the scheme would contribute to the diversification of an agricultural or land-based business, it would not do so in an acceptable way. As such it would conflict with Policies 18 and 19 of the Local Plan as outlined above.

### *Flooding*

30. As originally proposed, the drainage scheme within the northern part of the site would have relied upon infiltration, which the appellant has since acknowledged could not have functioned properly. Runoff could thus have caused localised flooding.
31. The revised scheme would utilise an attenuation pond, and the appellant additionally indicated willingness at the Hearing to consider exposing the culverted watercourse which crosses the site. Each would satisfy concerns expressed by the Lead Local Flood Authority (LLFA), which had included potential interference with the culvert by proposed landscaping, and the loss of an opportunity for improvement. Conditions have been proposed to address these matters.

32. Insofar as outstanding concerns remain, the proposed access in the northern part of the site would cross the culvert. A short section of the culvert would therefore become less accessible than it is at present. However, as the culvert is already buried, its situation would not be fundamentally changed. Though future maintenance would be made more difficult, this would be a matter for the appellants.
33. The reasons for refusal also raised concern in relation to habitats and species which depend directly on water. However, it was confirmed at the Hearing that this is not directly relevant to site given that all such water currently flows underground.
34. For the reasons set out above I conclude that the development could be appropriately drained. It would therefore comply with Policy 3 of the Local Plan which seeks to increase the resilience of Lake District to all types of flood event, and Policy 8 of the Local Plan, which requires additional or enhanced infrastructure necessary to mitigate the impact of the development.

#### *Balance*

35. I have outlined above the harm that would be caused by the scheme to the National Park. I have also outlined the harm that would be caused by the scheme to significance of designated heritage assets. I have additionally identified a series of social, economic and environmental benefits that could be delivered by the scheme, and whose collective scale and weight would be limited. That being so, the public benefits of the scheme would not outweigh the harm that it would cause.
36. I appreciate that the harm I have identified extends beyond that which formed a basis for the Authority's refusal of the scheme. Here however my decision partly reflects well-articulated objections raised by interested parties both prior to and at the Hearing. I am satisfied that both main parties had adequate opportunity to respond to these objections, and therefore that the interests of neither are prejudiced by my findings.

#### **Conclusion**

37. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan taken as a whole. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR

## **APPEARANCES**

### **For the Appellant**

Colin Aimers	(Drainage) Kingmoor Consulting
Jonathan Berry	(Character and appearance) Tyler Grange
Jonathan Edis	(Heritage) HCUK
Howard Elliott	(Diversification) Reading Agricultural Consultants
David Manley KC	Counsel for the appellant, Kings Chambers
Harry Tonge	(Planning) Steven Abbott Associates LLP

### **For the Local Planning Authority**

Stephanie Bruce-Smith	Counsel for the LPA, Francis Taylor Building
Neil Henderson	Planning Manager, Lake District NPA
Daniel Millican	Legal Adviser, Lake District NPA
Colin Parkes	LLFA, Westmorland and Furness Council
Andrew Smith	Head of Development Management, Lake District NPA

### **Interested parties**

Jacqueline Beech	Local Resident
Kate Bellwood	Kate Bellwood Associates
David Brookes	Local Resident
Ian Chamberlain	Local resident
Stephen Laws	Independent Landscape Consultant
Christopher Scott	Owner, Blackwell Park
Emma Scott	Local Resident
Pat Sefton	Crook and Winster Parish Council
Colin Thompson	Local Resident

### **Documents presented at the Hearing**

Draft S106.

Hearing notification letter.

Plan RFL-004K\_RevC: Access Landscape Masterplan.

Revised condition list.