Appeal Decision

Site visit made on 9 December 2008

by Brendan Lyons  BArch MA MRTP IHBC
an Inspector appointed by the Secretary of State
for Communities and Local Government

Decision date: 7 January 2009

Appeal Ref: APP/Q9495/A/08/2081784
The Samling, Dove Nest, Ambleside Road, Windermere, Cumbria LA23 1LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by The Samling Ltd against the decision of the Lake District National Park Authority.
- The application Ref 7/2008/5023, dated 15 January 2008, was refused by notice dated 29 April 2008.
- The development proposed is a replacement traditional timber jetty.

Decision

1. I dismiss the appeal.

Main issues

2. I consider the main issues in this appeal to be the safety and accessibility of the proposed jetty and its effect on the character and appearance of the lake frontage.

Reasons

3. The appeal site lies on the eastern shore of Windermere, where the A591 road runs immediately next to the lake. A gate in the low wall at the back of the footway and some steep steps down to the water’s edge mark the location of a former jetty, now only identifiable by the stumps of a few timber piles. It is proposed to erect a new timber jetty of traditional construction and appearance, extending some 12m into the lake.

4. The jetty would be intended for occasional private use by parties of guests from the appellant’s hotel, which lies on high ground on the far side of the road from the lake. It is suggested that guests, in groups of up to 22 people, would descend to the road by means of a woodland path that branches off the hotel drive and then, with the assistance of hotel staff, cross to the public footway to reach the jetty.

5. I agree with the National Park Authority (NPA), supported by the parish council and local civic trust, that the proposal raises a number of safety concerns. From my visit to the site, and previous visits to the area, I am aware that this stretch of road can be extremely busy, where stopping of vehicles would be generally hazardous and crossing the road requires good visibility and great care, despite the prevailing speed limit.
6. I noted that the woodland path, although marked on the OS plan, was not very evident on the ground, and would need some re-instatement before its use by visitors. Even then, given the location of the jetty, the better paved main drive might seem to walkers a more attractive option, but its restricted width allows limited safe places for them to stand clear of oncoming vehicles.

7. Both the path and the main drive are quite steep and potentially beyond the walking ability of some members of a group. I agree with the NPA that there could be pressure for some guests, either for that reason or due to inclement weather, to be dropped and collected from the jetty in a vehicle, thereby creating a potential safety hazard.

8. For those on foot, I noted that visibility at the likely crossing points at the foot of the path and at the drive is poor in at least one direction. In my view, attempts to cross the road at these locations, particularly by people in groups, would be potentially unsafe. It is not clear how exactly the assistance of hotel staff would guarantee safety and I agree with the NPA that it would not be feasible to frame a condition that would ensure their effective participation.

9. However, I do not share the NPA’s concern about the width of the footway on the lake side of the road. Although it is relatively narrow, there appeared to me to be adequate width for people to walk close to the jetty without forcing other users onto the road.

10. The appellant stresses the anticipated low level of usage of the jetty for private parties. The original planning application also envisaged occasional use by guests arriving by boat. However, it would be difficult to restrict the level of use in an enforceable way. Furthermore, over time the operation of the hotel, and hence also of the jetty, might change. The Aquatic Macrophyte Survey (AMS) submitted in support of the application also points out the potential for unauthorised use by others, given the jetty’s remoteness from the hotel and lack of supervision.

11. The site circumstances are not in my view directly comparable with the access to the landing facilities opposite the Low Wood Hotel, to the south of the site. There I observed that it is possible to obtain excellent visibility from both the single access point on the lake side of the road and from the hotel side. Unlike the appeal site, the location is one where drivers would be alert to the possibility of pedestrian traffic. The decision to expand long-established facilities at the hotel would have been informed by an understanding of the existing operation, including accident records, which would not be true of the appeal site.

12. I note that the highway authority raised no objection to the proposal on highway grounds when initially consulted on the planning application. However, the record of a subsequent exchange with the NPA suggests that the initial response may not have fully considered pedestrian safety issues. I note also that the authority’s objection on safety grounds to an earlier application for a larger public jetty at this site was subsequently withdrawn, but I have not been informed of the intended operation of that proposal and the implications in terms of people crossing the road.

13. I conclude on this issue that there is sufficient doubt over the likely safe operation of the facility to justify its rejection on safety grounds.
14. The current steep steps down to the shore would prevent access to the jetty for wheelchair users and many ambulant disabled people. While amendments to the steps might be possible to improve provision for the latter, I accept that the limited space available and the sensitivity of the foreshore area would rule out ramped access. However, as it is not disputed that the boats that would serve the jetty do not allow wheelchair access, and the jetty is intended for limited private use, the harm due to lack of ramped access would be limited and would not in itself justify dismissal of the proposal.

15. Policy NE7 of the Lake District National Park Local Plan (LP) supports the development of facilities associated with the appropriate recreational use of the lake that cannot reasonably be located elsewhere, subject to compliance with three criteria. In this case, there is no dispute that the use is appropriate or suggestion of a more appropriate location.

16. I agree with the NPA that the undeveloped nature of the water’s edge between the busy centres at the Low Wood Hotel to the south and Waterhead to the north contributes greatly to the attractive character of this stretch of lake front as seen from the road. The character of the bay where the jetty would be located appears natural and tranquil and quite separate from the area around the Low Wood Hotel. The AMS confirms the current lack of disturbance of natural habitat, despite the closeness of the road.

17. The AMS suggests that the most severe harm to nature conservation could be mitigated, subject to strict control over winter use. However, it also points out that the increased level of activity due to the re-introduction of a jetty would be likely to affect the lake shore and could be difficult to control. I regard this activity as distinct from the general boating traffic on this part of the lake cited by the appellant. Notwithstanding the anticipated low level of usage and the traditional appearance of the jetty, I consider that there would be an adverse change of character of this part of the lake shore, contrary to the first criterion of Policy NE7.

18. I have limited information about the approval of a replacement jetty at Wray Castle. However, I note that the existing jetty is already in public use, which suggests that the level of activity would not necessarily be increased by the proposal. From the plan supplied, I note the presence of a boathouse and potentially more engineered surroundings. All of these factors suggest some difference from the context of the appeal proposal, which I have sought to assess on its own merits.

19. Having taken account of all other matters raised, I find none of sufficient weight to alter my conclusion that the appeal should be dismissed.

Brendan Lyons
INSPECTOR