Planning Inspectorate

Appeal Decision

Site visit made on 15 January 2026

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Appeal Ref: APP/Q9495/W/25/3372924
Land at Fairfield, Eskdale Green CA19 1UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr R Irving against the decision of the Lake District National Park Authority.
- The application reference 7/2024/4097 sought approval of details pursuant to condition No 1 of planning permission reference 7/2020/4077, granted on appeal on 14 March 2022.
- The application was refused by notice dated 5 June 2025.
- The development proposed is erection of 3no. 1 bedroom dwellings.
- The details for which approval is sought are: access, appearance, landscaping, layout and scale.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr R Irving against the Lake District National Park Authority (the Authority). This application is the subject of a separate decision.

Preliminary Matters

3. I have used in part, the appeal site address as stated on the Appeal Form as this more accurately describes the site's location.

Background and Main Issue

4. The application which has led to this appeal sought the approval of reserved matters, following the grant of outline planning permission for 3 dwellings with all matters reserved, as a result of an earlier appeal[1], dated 14 March 2022. Therefore, the appeal before me seeks approval for the reserved matters of access, appearance, landscaping, layout and scale.

5. The main issue is the effect that approving these reserved matters would have upon the character and appearance of the area.

Reasons

6. The appeal site comprises a broadly rectangular piece of scrubland to the rear of dwellings along Smithy Brow Lane and Randlehow, on the edge of Eskdale Green. A gravel track runs through the site from Randlehow, and provides access to the village's wastewater facility, which is positioned to the south. Visibility of the appeal

[1] Appeal reference: APP/Q9495/W/21/3279281, application reference: 7/2020/4077.

site is limited largely to a small car park on Smithy Brow Lane and in some private views from adjacent houses, as well as from a public right of way (PRoW) which crosses the site itself.

7. The Authority's refusal reason refers specifically to the reserved matter of appearance, referring specifically to the massing, volume and design of the proposed dwellings.

8. Policy 06 of the Local Plan[2], (LP) seeks design excellence in all development, which is inspired by, and contributes to local distinctiveness. It states that development must reinforce the importance of local character, having regard to scale, height, density, layout, appearance and materials, and that it should be inspired by the natural environment and use innovative design and local materials to reflect local distinctiveness. The Authority has prepared Supplementary Planning Document 'The Lake District Design Code', September 2023, (the Design Code), to provide clarity about what is meant by high quality locally distinctive design, in the context of LP policy 06, and a number of other policies.

9. Amongst other matters, the Design Code directs developers to the Lake District National Park Landscape Character Assessment[3] and requires that new development is inspired by and respects landscape character. It also requires that new development respects or enhances local character and distinctiveness, informed by an understanding of the site context. It states that the type, form and composition of new buildings must be rooted in local character, and that the design of developments must reflect the local vernacular architecture and traditions. It considers vernacular design to be architecture based on local materials and traditions, where buildings were designed to meet functional needs.

10. Eskdale Green demonstrates a variety of architectural styles, reflecting its development over time. While many dwellings are detached and set in individual plots, there are also examples of semi-detached or short terraces of houses. Some dwellings sit hard up to the road edge, while others are set back. There is consistency in that most buildings are two storeys high, and comprise of local stone, or roughcast render, under slate roofs. Roof forms are generally simple with a low to medium gradient, often with chimneys. Stone walling to frontages is a further unifying feature.

11. A number of interested parties refer to differences between the appeal scheme and the outline application, particularly in relation to the size and position of the units. However, the appeal decision from 2022 states that the original proposal was described as '3 No 1 bedroom dwellings or bungalows', and no restrictive condition was imposed on the outline planning permission in relation to height. As all matters were reserved for approval at this later stage, any details provided at the outline stage would have been indicative only.

12. The design of the proposed houses utilises the sloping topography of the appeal site from north to south, and so the proposed dwellings would appear as single storey to the north elevation, and two storeys to the south elevation, with a relatively modest footprint. The proposal would sit low in the landscape with the backdrop of rising land. The variation in eaves and ridge height, and a narrow gap between plots 1 and 2, would emphasise each house, but it would appear as a

[2] Living Lakes Your Local Plan, Lake District National Park Local Plan, May 2021.
[3] Lake District National Park Landscape Character Assessment and Guidelines, Revised April 2021.

short terrace. As other dwellings within Eskdale Green are predominantly two storeys in height and of varying width and length, with some examples of short terraces, the proposed dwellings would be in keeping with the surrounding built form. Consequently, I find the overall massing and volume of the appeal scheme to be acceptable.

13. I am advised that these dwellings would be constructed using conventional techniques, and that they would consist of a mix of local stone and render, with slate to the roof. If sourced locally, these materials would reflect the traditional materials of the village, and this has attracted some local support. Precise materials could be secured by the imposition of a suitable condition.

14. The proposed roof design is relatively simple, albeit the irregular placement of solar panels undermines this to a degree. The roof gradient would be generally consistent with others in the village. The addition of chimneys and the use of cast stone lintels, cills and jambs to openings, demonstrates further consideration of the local vernacular, as does the use of front porches, which the Design Code advises have typically been incorporated in Lake District housing to offer protection from inclement weather. These aspects of the design would respond to and reinforce local character and distinctiveness.

15. However, a number of other features combine to undermine the quality of the overall design. The use of integral garages, balconies, and the associated large door and window openings, are not typical features of the locality. While I have been provided with a small number of examples of such features from within the village, these examples are few, and they could not be described as common. A number of these examples appear to be at the rear of properties where they are less visible, whereas the south elevation of the appeal scheme would be highly visible from the PRoW. Given the recreational qualities of the National Park, I have no reason to consider that this PRoW would not be well used, and there is no substantive evidence to support claims that it is only used infrequently.

16. The inclusion of integral garages would utilise the topography of the site and could have the benefit of reducing any impacts on trees from additional surface parking. Nevertheless, their incorporation, along with the associated arrangement of frontage driveways would give the proposal a repetitive and regimented appearance, which would be at odds with the more organic feel of the village.

17. I accept that balconies have the potential to reference traditional spinning galleries, which are a feature of some Lake District properties. However, no evidence has been provided that such features were common to Eskdale Green, or that the balconies as proposed, would reflect such features in terms of their design. Even if they did, there is no evidence to suggest that such features were accompanied by large door and window openings, which form part of the appeal scheme. These integral garages, balconies, and large door and window openings, introduce modern features, which would be a stark contrast to the local vernacular and semi-rural character of the area.

18. Further, the Design Code recognises that a common characteristic of Lake District buildings is that openings in walls are well-spaced and kept to a minimum, as a result of design following function. As a result, building elevations are often dominated by stone rather than glazing or large openings. While I acknowledge that this is not the case for all development in Eskdale Green, it is a characteristic

of many, including those dwellings to the immediate east and north of the appeal site. Due in large part to the combined use of integral garages, balconies, and large door and window openings, the proposed fenestration within the appeal scheme would not be well spaced or kept to a minimum, resulting in a busy appearance, which would jar the eye, when seen in context. Conditions imposed to control the design and materials of some features, would not be sufficient to address the concerns I have identified.

19. I appreciate that LP policy 06 does not seek to stifle innovation and that Eskdale Green is not a Conservation Area. Nevertheless, the proposal would not achieve the design excellence inspired by, and contributing to local distinctiveness, which is required by this policy, and so there would be conflict with it.

20. To conclude on this main issue, the appearance of the proposal would harm the character and appearance of the area, conflicting with LP policy 06, the requirements of which have been set out above.

Other Matters

21. The proposed development is within the Lake District National Park (National Park) and English Lake District World Heritage Site (WHS). The purposes for national parks derive from statute, and in decision making, the relevant authority must seek to further these purposes. Purpose 1 seeks to conserve and enhance the natural beauty, wildlife and cultural heritage of the area. Purpose 2 seeks to promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. Additionally, there is the duty to foster the economic and social wellbeing of the local communities therein.

22. The WHS is a heritage asset of the highest significance, recognised internationally to be of outstanding universal value. Paragraph 212 of the National Planning Policy Framework states that great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be), irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

23. The Authority's refusal reason does not state explicitly that the proposal would impact detrimentally on these designations, nor does it identify any conflict with those policies which relate specifically to them.

24. From my own observations and having considered the available evidence, I have no reason to disagree. While I have identified harm to the character and appearance of the area, this would be localised and it would not result in any significant harm to the natural beauty of the National Park, or its wildlife. Nor is there evidence to suggest that any attributes of land use that form the distinctive cultural landscape of outstanding universal value would be significantly harmed. Consequently, the proposal would not be inconsistent with furthering the purposes of the National Park, and the WHS would not be harmed. The provision of local occupancy housing would assist in fostering the economic and social wellbeing of the local community, an aspect of the proposal which has attracted support.

25. The appellant highlights that where possible, the proposed dwellings have been designed to be compliant with Part M4(2) of Building Regulations 'Adaptable and accessible homes'. Additionally, the proposal would incorporate renewable energy measures including an air source heat pump and solar photovoltaic panels, as well

as incorporating electric vehicle charging points. Such measures would be beneficial in accessibility terms and in reducing the carbon footprint of these dwellings, having regard to the requirements of LP policy 20.

26. Interested parties have expressed a range of additional concerns, both at the planning application and appeal stages. A significant number of these concerns relate to the principle of residential development at the site, or to the discharge of other conditions imposed on the outline planning permission, such as housing need and affordability, sewerage capacity and sewage disposal, risk of odour from the wastewater facility, feasibility of connecting to services, flood risk, construction management, waste management/disposal, impacts on ecology, stability issues, and traffic generation. Others relate to private matters such as access rights, sewer routes and easements. However, this appeal relates only to the reserved matters, and I have no scope within this appeal to reconsider matters which would have been dealt with at the outline stage, or which are matters for private parties.

27. A number of issues have been raised which relate to the other reserved matters of access, landscaping, layout and scale, where there can be some overlap. These matters were considered by the Authority at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. While I have considered all of these issues carefully, there is no compelling evidence before me that would lead me to come to a different conclusion to the Authority on these matters.

28. While I note concerns relating to possible future risks associated with the proposal, such as obstruction of the PRoW, or unauthorised changes to the development or use, in the circumstances, it is not necessary for me to go on and consider these matters.

Conclusion

29. While the principle of residential development on this site has been accepted, by way of its appearance, this detailed reserved matters scheme would have a harmful effect upon the character and appearance of the area. The proposal conflicts with the development plan when taken as a whole, and there are no other considerations of sufficient weight that would indicate a decision other than in accordance with the development plan. Accordingly, the appeal should be dismissed.

S Brook

INSPECTOR

Planning Inspectorate

Costs Decision

Site visit made on 15 January 2026

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Costs application in relation to Appeal Ref: APP/Q9495/W/25/3372924
Land at Fairfield, Eskdale Green CA19 1UA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr R Irving for a full award of costs against Lake District National Park Authority.
- The appeal was against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. In this case, the applicant contends that the Development Control Committee as decision maker for the Authority, acted unreasonably by trying to prevent any development of the site, through refusal of the reserved matters, despite having had a recommendation for approval from Officers.

4. The Report of the Head of Development Management to the Development Control Committee was clear in establishing that the principle of constructing three dwellings in this location had been established by the grant of outline planning permission[1], and that this matter could not be re-addressed. While this report provided a positive recommendation for the appeal scheme, the members of a planning committee are not bound by the recommendation of officers.

5. The Authority's refusal reason explains that the appearance of the development, by virtue of its mass, volume and design, failed to reflect the appearance of surrounding development or reinforce local distinctiveness, resulting in harm to the character and appearance of the area. Reference is then made to relevant development plan policies. This reasoning is clear and precise, and related only to the reserved matter of appearance, which remained to be determined.

[1] Appeal reference: APP/Q9495/W/21/3279281, application reference: 7/2020/4077.

6. The Authority's Statement of Case (SoC) sets out that it considered the main issue in the appeal to be the design of the development and its impact on the character and appearance of the area. The SoC goes on to provide detailed commentary on the unsuitability of the appearance of the proposal, having regard to its context, as well as relevant local planning policy, supplementary planning guidance and landscape character assessment. This supporting information is specific to the reserved matter of appearance and is well-reasoned.

7. The appellant has provided no substantive evidence to demonstrate that the Authority considered matters beyond the scope of the application before it, or sought to purposefully prevent any development of the site, by refusing the reserved matters application erroneously, or without reasoned justification. Therefore, I am unable to conclude that the Council has behaved unreasonably in the manner suggested by the applicant.

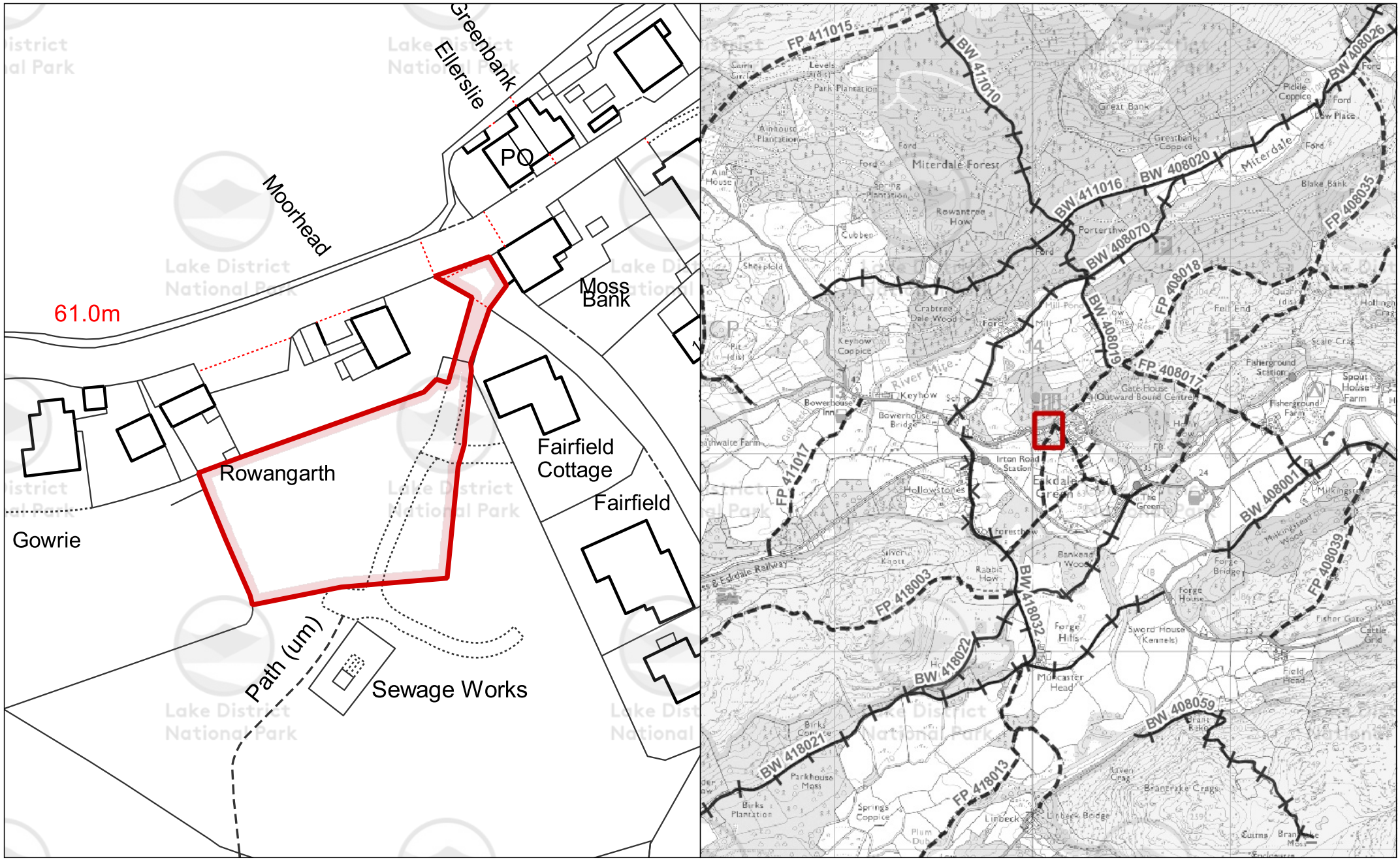
Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S Brook

INSPECTOR

Planning Application Site Plan: 7/2024/4097



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Lake District National Park Authority

Planning Inspectorate

Appeal Decision

Site visit made on 28 January 2026

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Appeal Ref: 6001537
1 Fir Garth, Chapel Stile, Westmorland and Furness LA22 9JW

- 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 Mr Carl and Mrs Rachel Phillips against the decision of Lake District National Park Authority.
- The application Ref is 7/2025/5118.
- The development proposed is conversion and extension of outbuildings to provide ancillary accommodation for no. 1 Fir Garth including short-term holiday letting.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission has previously been granted[1] for the conversion of the outbuildings. The appellant has stated that the permission has been implemented following the commencement of works.

3. A submitted drawing of the proposed annexe and elevations show two rooflights which were not on the previously approved plan. This has been superseded by Drawing Number 2209-205 Rev B.

4. Policy 18 of the Lake District National Park Local Plan 2020-2035, 2021, (LP) requires consideration of whether a building can be used for employment use. However, there is no dispute that as the building is in a residential area, it would not be suitable for this purpose.

Main Issue

5. The main issue is whether the proposal is suitable for local or affordable needs housing, having regard to the provision of satisfactory living conditions for the occupiers and the residents of No 1 Fir Garth.

Reasons

6. Policy 18 of the LP supports proposals for the reuse of existing buildings (excluding guest houses) for short term holiday letting where, amongst other considerations, they would not utilise a building that is suitable for providing local need or affordable needs housing. This is to support the aims of LP Policy 15 to increase the supply of homes to meet local community need, and the guidance set out in the Housing Supplementary Planning Document, 2023. To meet the local

[1] Ref 7/2023/5084

need, there is a requirement for 1,200 new permanent homes between 2020 and 2035. This is because there is huge pressure on the existing housing stock in many parts of the Lake District, partly due to second homes, or homes used for holiday lets.

7. The existing planning permission is for the use of the building for ancillary accommodation for visiting family members. An informative on the decision notice states that if used separately from the main house, it would amount to a material change of use that requires planning permission. This proposal seeks to allow the use of the annexe for occasional short-term holiday lets for paying guests. This is suggested as being for one or two nights over a weekend, and that on average, 50% of the use would be by their family. Because of the costs of converting the building, this would generate additional revenue to support the development.

8. No 1 Fir Garth (No 1) is a three storey, end terrace. The house is entered either by a side door off the drive, shown as a utility area on the proposed plan, or through a door fronting the road, into a kitchen. Behind the metal gates to the side of the house, there is a drive wide enough for the parking of one vehicle. To the rear of the house, there is a gravel surface and paving, with an outdoor table and chairs. From here, stone steps lead to a further area of garden, with some small trees and bushes, bounded by traditional stone walls.

9. On the other side of the drive are the single-storey outbuildings, which are attached but not connected. They currently form a T-shape, but the permission allows for a flat roofed extension on the northern elevation. This would overlook a large, gravel covered, open area, entered either by steps from the drive, or by a metal field gate enabling vehicular access off the adjoining B5343.

10. The garage facing the road is small, but the garage to the east appeared quite spacious. When converted and extended, it is agreed between the main parties that the internal floorspace of the proposed annexe would be 55.8m², which I have no reason to dispute. This means that the size of the building would satisfy the space set out in the Technical Housing Standards[2] for a one storey, 1-bed, 1-person dwelling, required to be at least 39m², or a 1-bed, 2-person dwelling which needs to be at least 50m². The South Lakeland Strategic Housing and Economic Needs Assessment (SHENA), 2023, states that there is a demand for all types and sizes of property, with the appellants referring to a 15% need for 1-bedroom dwellings.

11. The permitted accommodation has two bedrooms, a sitting area and a shower/toilet, with no kitchen. The application does not change the approved internal layout, with the intention that a microwave and kettle would be provided for occasional holiday use.

12. The appellants contend that if used as an independent dwelling, a further extension to the outbuildings would be required. However, if occupied as a 1-bed dwelling, from the evidence and what I saw, the size of the approved building could accommodate further changes and the reorganisation of the space without requiring any form of extension.

13. On the southern elevation, which is closest to the house, the permitted scheme includes a rooflight over the shower room, which would not result in overlooking,

[2] Technical housing standards – nationally described space standard, MHCLG, 2015

and a window in bedroom 2, which would overlook the rear garden of No 1. It is acknowledged that because of the position of the outbuilding in relation to properties to the rear, windows on the east elevation are not appropriate. However, there is scope elsewhere for rooflights, high-level windows or obscure glazing which would avoid overlooking between the occupiers of the converted outbuilding and those in No 1.

14. Indeed, on both the western and northern elevations of the outbuilding, several windows are proposed. Therefore, I can see that when converted, the building would have adequate natural light and outlook.

15. There is no plan that shows the proposed parking, and details of outdoor space for a holiday use has not been provided. However, to the north of the buildings is a sizeable area of ground, enclosed by traditional stone walling. This could easily accommodate parking and outdoor space for both a holiday let and permanent occupation. This would enable the driveway and the existing garden area to the rear of No 1 to be retained for the residents of the house.

16. The northern part of the site is open, meaning that there is the potential for any outdoor space to be overlooked, either from the 1st floor side window of No 1, or by surrounding residential properties. However, the relationship between houses along Fir Garth and those surrounding the site, is such that many garden areas and outdoor sitting spaces are close and often overlooked by occupiers in neighbouring properties. The use of appropriate soft landscaping could ameliorate this, to provide further privacy.

17. The appellant considers that if the building is only used by short-term holiday guests, combined with its location at the end of the terrace, it would not harm the amenity of surrounding occupiers. However, whilst there may be some oversight from the appellants occupying No 1, who could control any noise from a holiday let, there is no substantive evidence that there would be less noise and disruption than if the building was permanently occupied.

18. The close relationship between the buildings has led the appellants to contend that an ancillary use is more suitable than it being an independent dwelling. However, the appellants have applied for the building to be used as a holiday let for up to 50% of the time. This would result in a material change of use and the creation of a separate residential dwelling.

19. Therefore, I conclude that the proposal is suitable for local or affordable needs housing, having regard to the provision of satisfactory living conditions for the occupiers and the residents of No 1. Thus, the use of the building as a holiday let would be contrary to the requirements of LP Policy 18 as set out above.

Other Matters

20. The appellants have stated that there is a mismatch between versions of the location plan and block plan, so that the red line boundary differs. Consequently, if I had been minded to approve the appeal, I would have recommended reconsultation. However, this does not change my findings on the main issue.

21. The site is within the designated Lake District National Park (NP) where there is a statutory duty upon relevant authorities exercising their function to seek to further the purposes for which National Parks are designated. This includes conserving

and enhancing their natural beauty, wildlife and cultural heritage. The NP is, in addition, a World Heritage Site (WHS), a designated heritage asset of the highest significance. Such sites are internationally recognised to be of Outstanding Universal Value (OUV). Its significance is in part derived from its mountainous character, glaciated valleys and numerous lakes which has created a landscape of natural and cultural beauty, shaped by an agro-pastoral land use. Based on the scale and nature of the proposal, it would not harm the special qualities of the NP and would protect the OUV of the WHS. Thereby, the significance of the WHS would not be harmed.

22. Details of an application for a one-bedroom unit of accommodation, converted from a garage at Whinny House, Windermere[3] has been provided. Whilst there were similar issues to this case, access and clear views into the host dwelling meant that it was unsuitable for use as a local occupancy house or local needs housing. However, the circumstances in each proposal are likely to be different and I have determined the appeal on its own merits, based on the evidence before me.

23. An appeal decision[4] found that providing suitable outdoor space for both the main house and an annexe would harm living conditions for both properties, would not be suitable for local or affordable needs housing and not contrary to the requirements of LP Policies 15 and 18. This does not, however, affect my findings on this appeal, where there is additional space next to the proposed outbuilding.

24. There would be economic benefits from paying guests using the annexe for holidays, and there is availability of local transport and services. However, if the building was occupied on a permanent basis, the residents would also contribute to the economy of the local area and support local services. Therefore, this is a neutral matter.

25. The appellants refer to a bat survey undertaken in 2022, and that an advisory note could be attached to any permission. Furthermore, they advise that the proposal is exempt from Biodiversity Net Gain. However, as I am dismissing the appeal, I do not need to consider these matters further.

Conclusion

26. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.

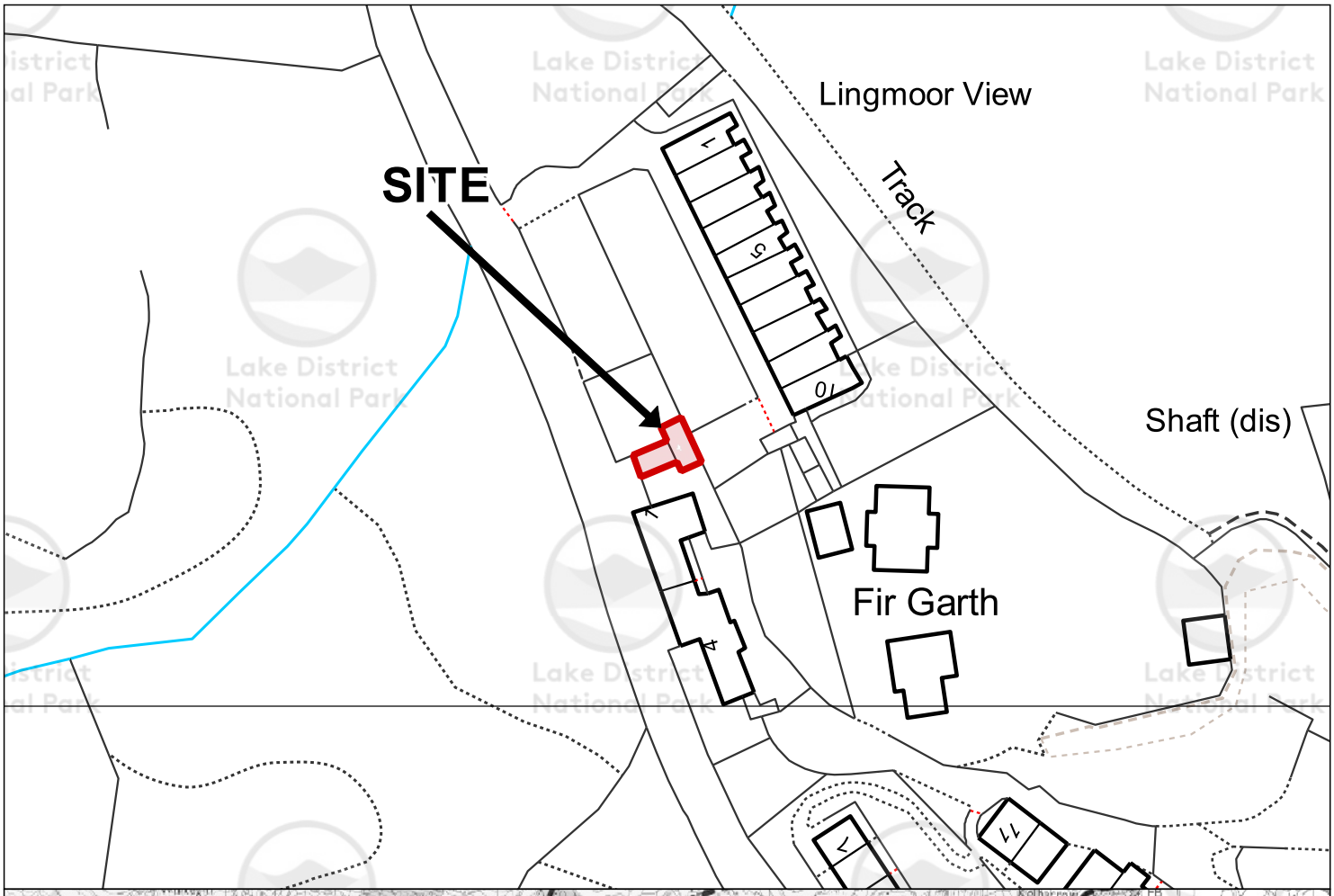
27. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

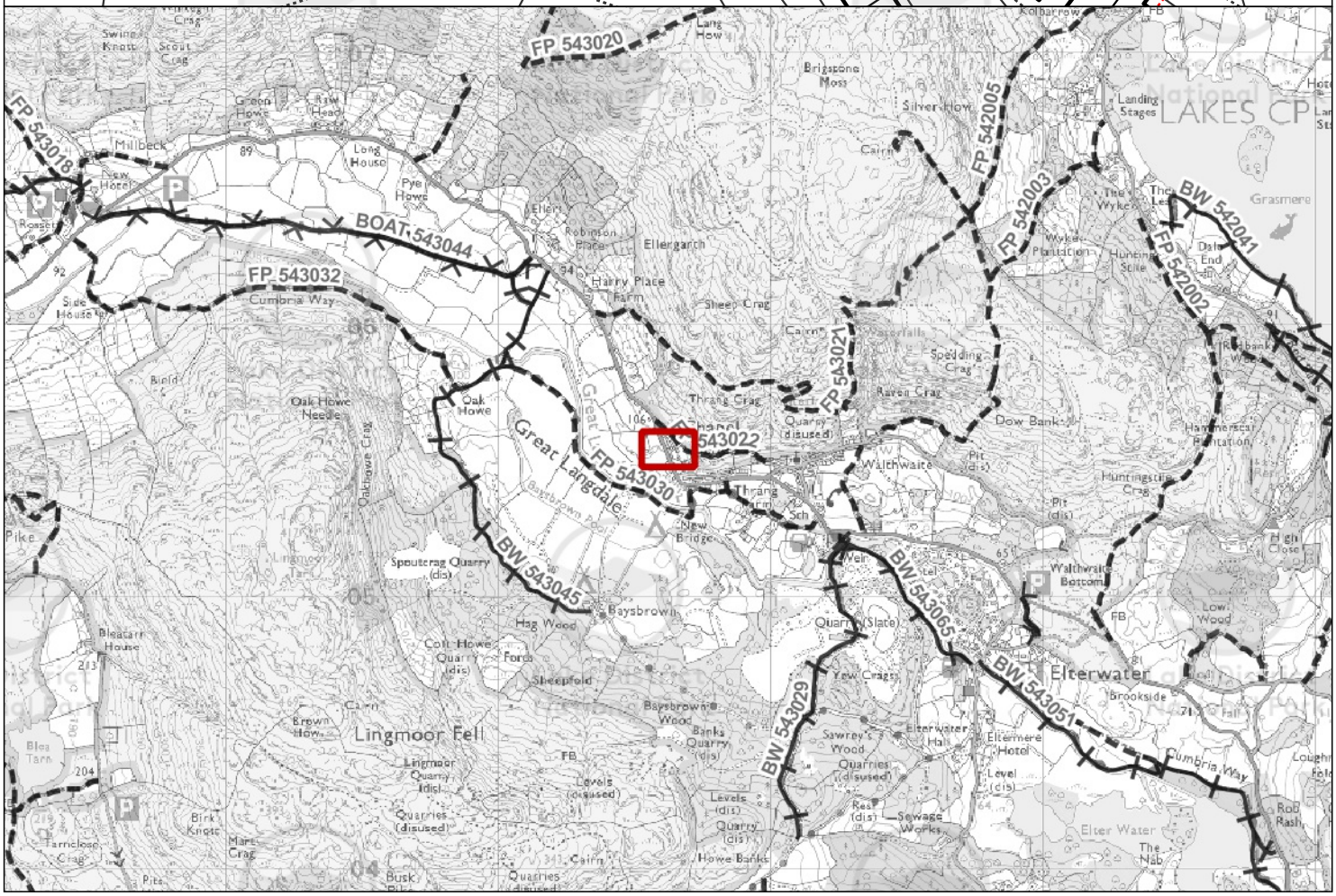
M J Francis

INSPECTOR

[3] Ref 7/2025/5189
[4] APP/Q9495/W/24/3343533

Planning Application Site Plan: 7/2025/5118





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Lake District National Park Authority

Planning Inspectorate

Appeal Decisions

Site visit made on 25 February 2026

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2026

Appeal A Ref: APP/Q9495/C/25/3362947
Low Wood Cottage, Wasdale, SEASCALE, CA20 1ET

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Glen Race against an enforcement notice issued by Lake District National Park Authority.
- The notice (Notice A) was issued on 26 February 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, operational development consisting of building operations to erect a summer house with associated patio and a timber car port with associated concrete base in the approximate position marked on the attached plan'.
- The requirements of the notice are to: Restore the Land to its condition before the breach took place by: (1) Removing the summer house and associated patio, as shown in Photograph A, from the Land; and (2) Removing the timber car port and associated concrete base, as shown in Photograph B, from the Land.
- The period for compliance with the requirements is: three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Appeal B Ref: APP/Q9495/C/25/3362949

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Glen Race against an enforcement notice issued by Lake District National Park Authority.
- The notice (Notice B) was issued on 26 February 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the making of a material change of use of the Land from managed woodland to use as garden in association with the residential use of Low Wood Cottage as a dwelling'.
- The requirements of the notice are to: Discontinuing the use of the Land as garden.
- The period for compliance with the requirement is: three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Appeal C Ref: APP/Q9495/W/25/3362944

- 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 Mr Glen Race against the decision of Lake District National Park Authority.
- The application Ref is 7/2024/4085.
- The development proposed is 'Erection of fish pond; summerhouse and car port and change of use of woodland to garden area - all retrospective'.

Appeal D Ref: APP/Q9495/W/25/3373784

- 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 Mr Glen Race against the decision of Lake District National Park Authority.
- The application Ref is 7/2025/4038.
- The development proposed is 'Retention of existing fish pond, summerhouse and car port, and change of use of land to garden area'.

Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of three months and its substitution with four months as the time for compliance. Subject to the variation, the enforcement notice is upheld.

Appeal B

2. It is directed that section 5 of the enforcement notice is corrected by the deletion of the word 'Discontinuing' and its replacement with 'Discontinue'; the words 'in association with the residential use of Low Wood Cottage as a dwelling.' shall be added at the end of the requirement.

3. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Appeal C

4. The appeal is dismissed.

Appeal D

5. The appeal is dismissed.

Preliminary Matters

6. As set out above, there are four appeals relating to the site. Appeals A and B relate to enforcement notices served against the erection of two domestic outbuildings (Notice A) and a change of use of land to garden (Notice B) respectively. Appeals C and D relate to retrospective planning applications refused by the Authority for the same development. In addition, permission was sought for a fish pond constructed on the site.

7. The appellant has submitted combined statements for the grounds of appeal in Appeals A and B. Accordingly, I have dealt with those matters together to avoid repetition unless otherwise stated. Similarly, I have dealt with the common issues in Appeals C and D together. As the appeals are linked, I deal with Appeals C and D first as these may influence the outcome of Appeals A and B.

Appeals C and D

Main Issue

8. The main issue is the effect of the development on Ancient Semi-Natural Woodland.

Reasons

9. The development subject of the planning applications lies within a designated area of Ancient Semi-Natural Woodland, an irreplaceable habitat. Following the initial decision to refuse planning permission (Ref. 7/2024/4085), Tree Preservation Order (No.482 [2025]) has been made on the predominantly deciduous woodland, a habitat of principal importance.

10. For the purposes of Appeal D, the appellant commissioned an ecological assessment[1] of the site. The report concludes that the long-standing nature of the

[1] Ecological Assessment Low Wood Cottage Envirotech Report 9784

woodland is not disputed, such that it falls within the National Planning Policy Framework's definition of ancient woodland. However, it highlights the effects of relatively recent and short-term human actions prior to the appellant's ownership which have probably caused significant ecological change, principally through the establishment of invasive and ornamental species preventing natural regeneration and potentially altering the soil chemistry. The report finds that a dearth of ancient woodland indicator species brings into question whether the area should retain continued ancient woodland status. I acknowledge that the appellant has applied directly to Natural England (NE) in that regard.

11. However, the Planning Practice Guidance[2] (PPG) states that the existing condition of ancient woodland is not something that ought to affect the local planning authority's consideration of avoiding or mitigating adverse impacts of development proposals (and it should be borne in mind that woodland condition can usually be improved with good management).

12. The report identifies the causes of interruption to the woodlands natural ecological progression. The introduction and retention of rhododendron and other ornate species is recognised as causing shadowing of the woodland floor, potential changes to soil chemistry – including adverse effects on the ability of trees to take up nutrients, and out-competing native wildflowers. However, this is a matter of current condition as opposed to qualification under the Framework's definition. Accordingly, until such a time the site may be removed from NE's Inventory of Ancient Woodland, those relevant local and national planning policies apply.

13. Paragraph 193 c) of the Framework is clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient and veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. This is reflected in policy 05 of the Lake District National Park Local Plan 2020-2035 (the LDNPLP) recognising woodlands as one of the Lake District's most valuable scenic and wildlife assets.

14. The structures lie close to trees within the woodland. In part, their footprints and/or adjacent patio surfaces lie below tree canopies and almost certainly within the rooting areas of some established trees. I have little doubt that the levelling and covering of those areas with impermeable roofs, tanking and/or surfacing will have altered soil drainage and structure, compaction and gaseous exchange or aeration capabilities, for example.

15. In addition, the functional use of the carport – potentially frequently drawing vehicles over rooting areas due to its position, would also likely cause impacts to rooting zones and soils in the approach and turning areas. The expansion of the built area and encroachment of regular activity and disturbance could undermine the continuity and ecological value of the woodland block over time with the linkage between the northwestern and southeastern parts of the local woodland block being largely undermined.

16. The appellant's evidence shows that the location of the summerhouse was previously covered with artificial grass installed by the former owner. However, there is little to demonstrate that, or a seemingly bare area formerly in the location of the carport, were subject to equivalent loading, activity, or were impermeable.

[2] Reference ID: 8-033-20190721

17. In the absence of any detailed arboricultural assessment of the effects on nearby individual trees, there is little to demonstrate that the habitat harm identified by the Lake District National Park Authority has not occurred. The appellant's conclusion that the buildings and material change of use of the land are 'unlikely' to increase additional stress to the retained woodland is not, in my view, duly substantiated. Accordingly, I find that the appellant has failed to demonstrate that the alleged harm has not occurred and it is the appellant's burden to demonstrate that 'wholly exceptional' reasons exist to justify the development in its location.

18. Footnote 70 of the Framework gives limited examples of what might constitute 'wholly exceptional'. It refers to infrastructure schemes delivering public benefits which clearly outweigh any loss or deterioration.

19. The appellant asserts that much of the damage to the woodland ecosystem occurred under the tenure of previous owners. It is suggested that storm damage resulted in some loss of trees, that artificial turf was installed, hardstandings were created, and earlier landscaping with adverse effects on the woodland ecosystem were introduced. According to the appellant's assessment, the carport and summerhouse locations were previously stressed or impacted. However, none of those matters provide justification for further harm resulting from additional development.

20. The report highlights that the only means of compensation for past loss of woodland caused under the previous ownership is restoration / enhancement of the remaining ancient woodland. However, the PPG is clear that 'When assessing whether 'wholly exceptional reasons' exist that may justify a loss or deterioration of ancient woodland, ….it will not be appropriate to take any compensation measures into account. These should be considered only once the existence of 'wholly exceptional circumstances' has been ascertained'.

21. There is no dispute that proposed management measures could improve the condition of the woodland elsewhere. It could revitalise a dormant ancient woodland seedbank. While I recognise the doubts raised by a third party as to whether the requirements of a woodland management scheme would be implemented, as this could be secured through an enforceable planning obligation, I am satisfied that such benefits could be realised.

22. However, notwithstanding that those measures could enhance the remaining woodland, I am mindful that if an approach potentially promoting irreparable damage in lieu of improvements to a reduced area was supported, then that would endorse potential incremental loss of the irreplaceable habitat which the policies seek to prevent. Accordingly, I find the preservation of existing elements must be prioritised over mitigation as the policies require.

23. In accordance with Paragraph 189 of the Framework, that conservation of an irreplaceable habitat as part of the woodland forming a distinctive characteristic of Wasdale also attracts great weight in conserving the landscape and scenic beauty of the Lake District National Park. For those reasons, I conclude that the appellant has not substantively demonstrated that any wholly exceptional circumstances exist to justify development causing additional harm to designated ancient woodland. The development conflicts with the Framework and policy 05 of the LDNPLP as they seek to protect irreplaceable ancient woodland habitat and there are no material considerations to outweigh this conflict.

Other Matters

24. I note third-party letters of support for the development, however, these are not benefits in its favour.

25. Due to the distance and intervening screening, I find no adverse effect on neighbouring living conditions arises from the use of the summerhouse or extension of the residential area.

Conclusion on Appeals C and D

26. For the reasons given above, Appeals C and D should be dismissed.

Appeals A and B - The Notices

27. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.

28. The appellant asserts that the requirements in Notice A to 'Restore the Land to its condition before the breach took place' and the requirement in Notice B to 'Discontinuing the use of the Land as garden' are hopelessly ambiguous.

29. The appellant confirms that he has occupied the property since 2021 and does not contest that the erection of the buildings and laying of surfaces took place within the 4-year period prior to the issue of Notice A. It is well established[3] that a requirement to restore a site to its previous condition is a valid requirement and is not bad in law. As the person responsible for carrying out the unauthorised works, the appellant would be aware of the starting position. Accordingly, I find that requirement in Notice A is reasonable and clear.

30. Section 3 of Notice B tells the recipient with *reasonable certainty*[4] what they have done wrong. However, in isolation, the requirement to 'Discontinuing the use of the Land as garden' may cause some ambiguity through the construct of the phrasing and as to what may and may not constitute 'use as a garden'. However, the case of *Oates*[5] established that where an enforcement notice is found to be uncertain, it is for the Inspector to judge whether that uncertainty or defect renders the notice a nullity.

31. Section 5 is not read in isolation. Within the four corners of the Notice, I find the requirement to remedy the breach of planning control is not hopelessly ambiguous to render Notice B a nullity. Furthermore, when read as a whole, a correction to section 5 to avoid any uncertainty by matching the requirement with the allegation would not, to my mind, result in injustice to either party. Subject to correction, I find Notice B would be neither a nullity, nor be invalid.

32. The appellant states that some uses of the Land commenced prior to his occupation. However, in the absence of any contention that those uses benefitted

[3] See *Lipson & Lipson v SSE & Salford MBC* [1976] 33 P&CR 95, [1977] JPL 33
[4] See *Miller-Mead v MHLG* [1963] 2 WLR 225
[5] *Oates v SSCLG* [2017] EWHC 2716 (Admin)

from planning permission, or had become lawful prior to the issue of Notice B, then there is no basis to question the validity of the requirement.

33. The appellant refers me to the case of *Hounslow LBC* v SSE [1981]. However, that case involved an enforcement notice using the phrasing 'comply or **seek to** comply with' a condition of a planning permission. A correction here to 'Discontinue the use..' does not cause any such uncertainty or concern as to enforceability. The circumstances are not therefore comparable to the cases before me.

Appeals A and B – Ground (f)

34. Appeals on ground (f) are that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

35. In this case, Notice A alleges the erection of buildings and requires that they are removed. Notice B alleges that there has been a material change of use, and it requires the unauthorised use to cease. The notices do not 'under-enforce' and the purpose of the notices must be to remedy the breaches.

36. For that reason, and because consequently I have no scope to consider whether the requirements of the notice are excessive to remedy any injury to amenity, the only case the appellant can make for ground (f) is that lesser steps would suffice to remedy the breach.

37. The appellant highlights that the Council conclude that the buildings cause no visual harm from public vantage points and that the principle of a garden extension does not necessarily conflict with the development plan. It is asserted that the harm to the Ancient Semi-Natural Woodland could be overcome through securing the implementation of a detailed Habitat/Woodland Restoration and Management Plan. However, even if that were the case, those steps would not remedy the breaches of planning control. Accordingly, the ground (f) appeals must fail.

Appeals A and B – Ground (g)

38. This ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant suggests that the periods should be extended to 12 months.

39. My role here is to balance the public interest in securing expeditious compliance with the enforcement notice against the private interest bound up in the development subject to the notices. In so doing, I must assume that the use of the land subject to Notice B and the erection of the buildings subject to Notice A cause the harm alleged in the reasons for issuing the notice.

40. The appellant asserts that the physical removal of the buildings and restoration of the Land would take time to plan and implement. On the other hand, their expeditious removal would remove any adverse effects caused to nearby trees forming part of the protected woodland. It would reinstate more favourable ground conditions during the next growing season.

41. However, as the requirements of Notice A may have potential to cause additional adverse effects on the protected woodland, I agree that additional time to consider the detail of safe removal without further damage would be reasonable in the case circumstances. Appeal A succeeds to the extent that the time for compliance with Notice A is extended to four months to allow the appellant to take advice on the issue.

42. In the absence of justification as to why the cessation of the use of the additional areas might require a longer period, I find the time specified in Notice B is reasonable. Appeal B on ground (g) therefore fails.

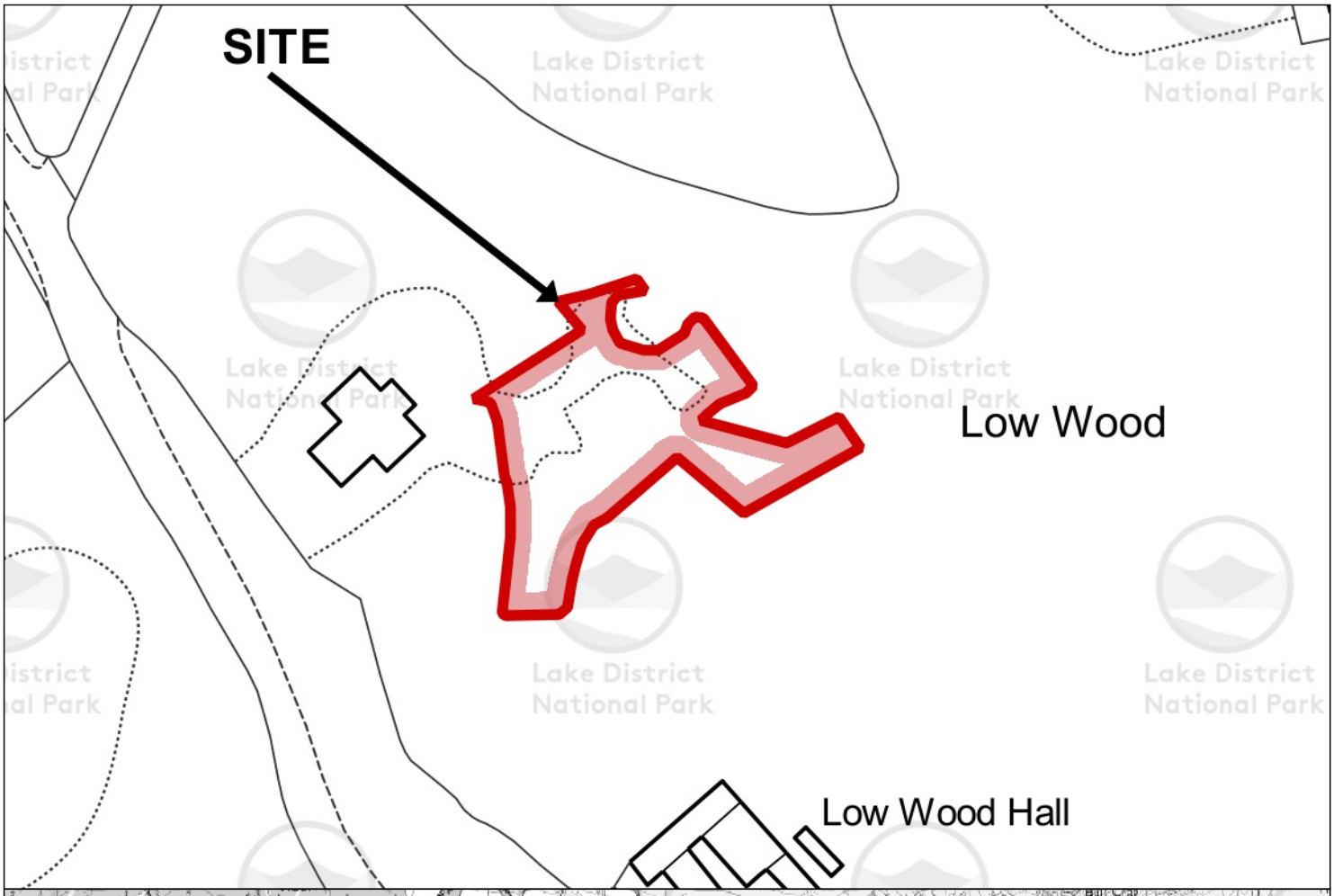
Conclusions on Appeals A and B

43. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with a variation to Notice A and a correction to Notice B.

R Hitchcock

INSPECTOR

Enforcement Site Plan: E/2024/0096



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Plan scale: 1:1,000
Overview: 1:25,000

Date Authored: 19/03/2026

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