

Appeal Decision

Site visit made on 3 December 2024

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

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal Ref: APP/Q9495/C/23/3334495

Land at Beckstones Farm, Grizebeck, Kirkby In Furness, LA17 7XS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr M Keegan of Ashton Agricultural & General Ltd against an enforcement notice issued by the Lake District National Park Authority.
- The notice was issued on 25 October 2023.
- 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 use as agriculture to a mixed use of agriculture and the storage of a caravan (in the approximate location as marked by the blue cross on the attached plan).
- The requirements of the notice are to:
 - (i) Cease to use the land for the storage of a caravan, and
 - (ii) Remove the caravan from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended).

Formal Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (b)

2. An appeal on ground (b) is that the matters or development alleged by the notice have not occurred. As with ground (c), the onus is on the appellant to make their case on the balance of probabilities.
3. The land subject to the notice (the appeal site) is part of a wider agricultural holding which extends to approximately 1,200 hectares and comprises a mix of cattle and sheep farming. There is no dispute that agriculture is the lawful and the existing primary use of the land.
4. There is also no dispute that a static caravan has been stationed on the appeal site, specifically on an area of hardstanding adjacent to a cluster of agricultural buildings. The point at issue is what use or purpose the caravan has been stationed for; the notice suggests that the caravan is being stored, meaning that the land is used for storage as well as agriculture. The appellant contends that the caravan is used for staff welfare and 'occasional' accommodation purposes related to the lawful agricultural use.
5. To elaborate, the appellant told the Local Planning Authority (LPA) that the caravan is 'used intermittently when stock requires 24 hour watch'. However, the appellant has submitted little evidence as to how often that might be, or what welfare facilities or accommodation are needed by staff at such times. Indeed, the appellant has provided very little information about the agricultural enterprise generally. It is not enough to say that the caravan would not normally be slept in during the working day. The appellant has not given any positive description of the welfare or accommodation use.
6. The LPA questions whether the caravan has been used for welfare or accommodation purposes at all, given that they saw 'minimal items' inside the caravan. Either way, what does seem likely, from the evidence as a whole, is that the caravan is not removed from

the land at such times that it is not required for welfare or accommodation purposes. Thus, the appellant has not shown that the caravan is not being stored as alleged the majority of the time.

7. I conclude that, on the balance of probabilities, there has been a change of use so that the land is being used for the purpose of storage – with the caravan being the item stored – as well as for agriculture. It follows that the matters alleged by the notice have probably occurred and the appeal must fail on ground (b).

The appeal on ground (c)

8. Ground (c) is that the matters alleged do not constitute a breach of planning control, perhaps because planning permission is already granted or not required.
9. Planning permission is required for a ‘material’ change of use, whereby there is some significant change to the character of the activities taking place as a matter of fact and degree. The appellant suggests that there has not been a material change in this case because the use of the land facilitated by the siting of the caravan is ancillary or incidental to agriculture. An incidental use must be different but functionally related to the primary use in a way that is normally found and not simply based on the personal choice of the user.
10. I take the appellant’s point that it is not unusual to see single caravans stationed on farms, and the LPA may well have accepted that such was ancillary in other cases. In *Wealden District Council v Secretary of State for the Environment & Day* [1988] JPL 268, the high court held that the siting of a caravan for use for the storage and mixing of animal feed, for farm office purposes and as a shelter for agricultural workers was incidental to the lawful agricultural use, such that there had not been a material change of use.
11. Again, however, the appellant has failed to explain what any ‘intermittent’ welfare or accommodation use of the appeal caravan looks like; when and why that is required on this farm; or why the caravan is here on a permanent basis. Caravans are designed for human habitation and the appeal relates to a static caravan or ‘mobile home’ which has a visibly different design and purpose to that of agricultural buildings, machinery and equipment. The appellant has not shown that the storage of the caravan is incidental to farming and has not caused a significant change to the character of the activities taking place.
12. On the balance of probabilities, the caravan is not being kept here for agricultural purposes and there has been a material change of use so that the land is used for two primary uses, agriculture and storage. Planning permission is required for the change of use and the appellant has not shown that such is granted. Indeed, the appellant accepts that the material change of use is not ‘permitted development’ under the Town and Country Planning (General Permitted Development) (England) Order 2015.
13. I conclude that there has probably been a breach of planning control as alleged and so the ground (c) appeal cannot succeed.

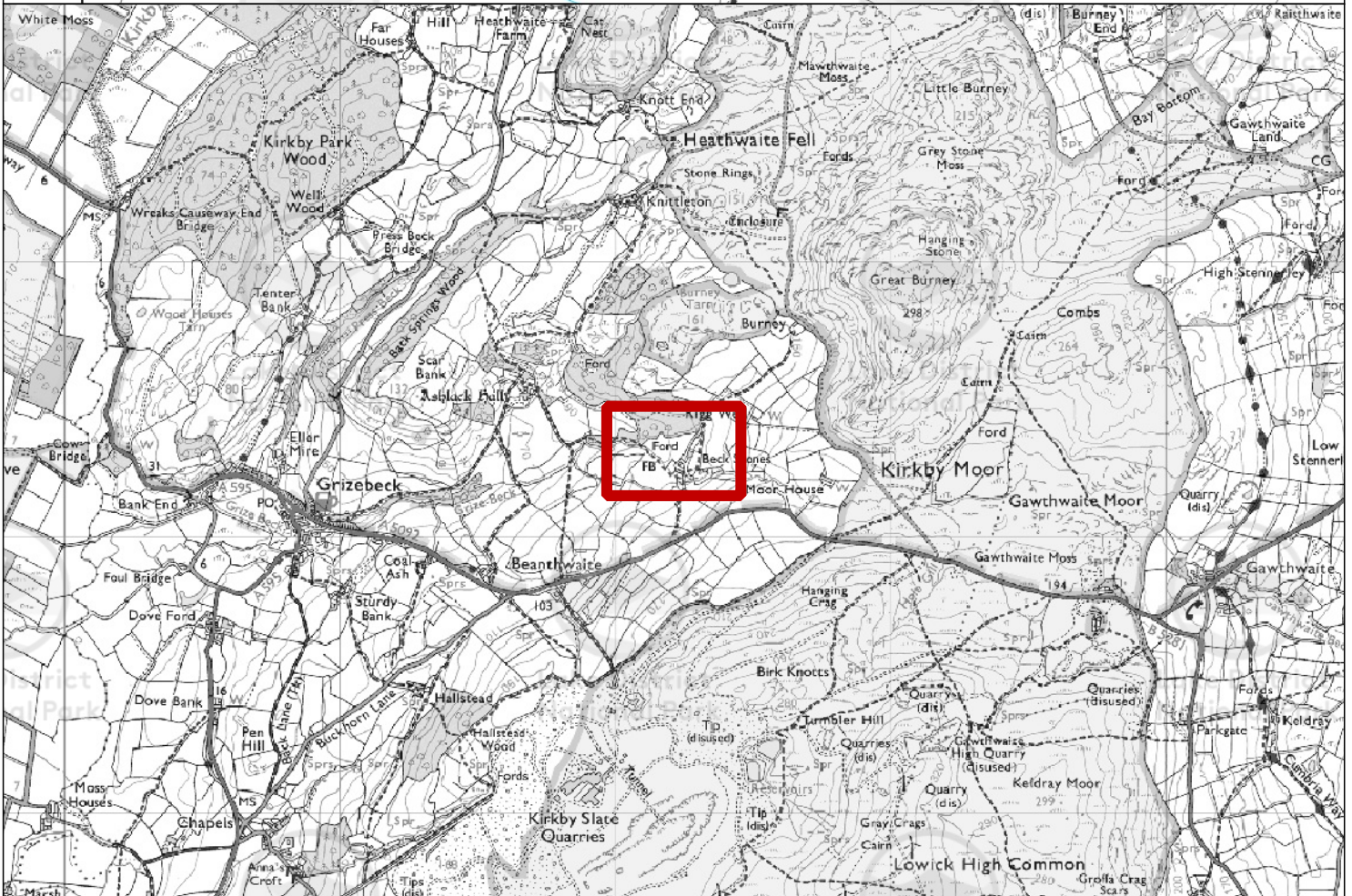
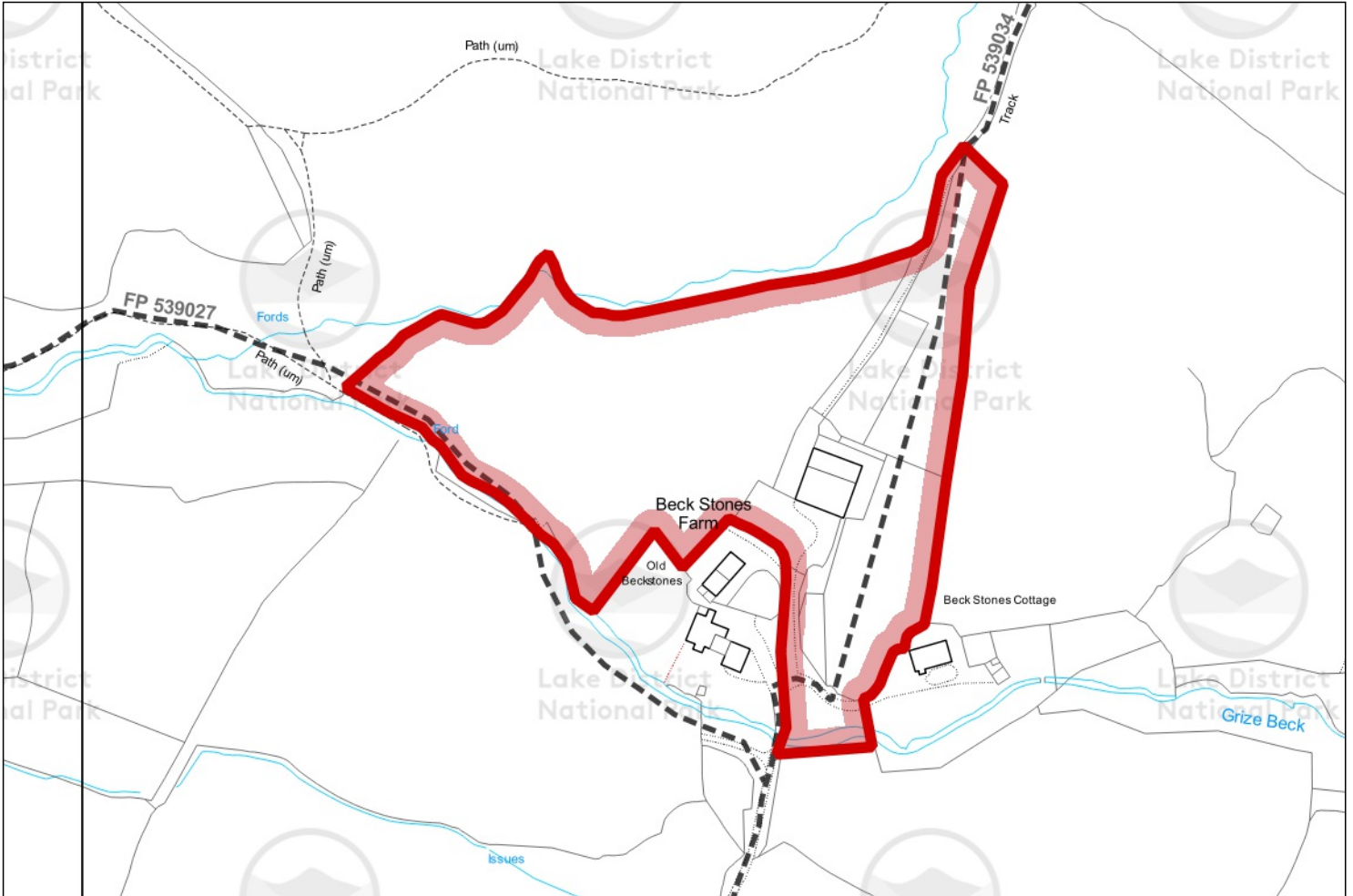
Conclusion

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

J M Tweddle

INSPECTOR

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Plan scale: 1:2,500
Overview: 1:25,000



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Appeal Decision

Site visit made on 5 November 2024

by **Sarah Manchester BSc MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/Q9495/D/24/3344960

4 Browfoot, Keswick, Cumbria CA12 4LQ

- 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 Ian Moore against the decision of Lake District National Park Authority.
 - The application Ref is 7/2024/2016.
 - The development proposed is erection of a privacy fence between 4 Browfoot and Glenburn.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a privacy fence between 4 Browfoot and Glenburn at 4 Browfoot, Keswick, Cumbria CA12 4LQ in accordance with the terms of the application, Ref 7/2024/2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing Refs: Location Plan, received 15 Feb 2024; Proposed elevations, received 19 March 2024; Proposed block plan, received 19 March 2024.

Main Issues

2. The main issues are the effects of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The living conditions of the neighbouring residential occupiers.

Reasons

Character and appearance

3. No 4 forms part of a row of 2-storey semi-detached dwellings to the south of Penrith Road. Properties are deeply set back from the street behind frontages enclosed by low stone walls. Off-street parking is provided by means of side driveways leading to garages and frontage parking. The hard built environment is softened by garden planting. Notwithstanding variation between properties, the street scene has a harmonious character and appearance unified in part by the similar palette of external materials and the stone boundary walls.
4. The proposed fence would comprise wooden fence panels on top of concrete gravel boards. It would extend forward from the garage to the rear of No 4 and it would finish roughly in line with the front elevation of the neighbouring property, Glenburn. The fence would be constructed on the appeal property side of the boundary wall that separates the neighbouring properties.

5. The 2.5m high fence would be taller than the existing wall. However, while the fence would be fully visible from the No 4 side, slightly less than 1m would be visible above the wall on the Glenburn side. The fence would obscure a length of wall on the No 4 side, but the other side of the wall would remain visible. As the fence would not be forward of the front elevation of Glenburn, the proposal would preserve the openness and the stone walls of the frontages, which contribute positively to the character and appearance of the area. Moreover, by virtue of its siting, the fence would be screened in views along the road by the dwellings to either side and the vegetated frontages of neighbouring properties.
6. The proposal would result in a localised visual change. However, the fence would not be prominent in the street scene. Moreover, while front boundaries are typically formed by stone walls or hedging, the treatment of side boundaries varies and does include fencing. The proposal would not be out of character in this context and it would not detract from local distinctiveness or sense of place.
7. Therefore, I conclude that the proposal would not harm the character and appearance of the area. It would accord with policy 06 of the Lake District National Park Local Plan 2020-2035 Adopted May 2021 (the LP), which requires, among other things, that proposals reinforce local character.

Living conditions

8. Penrith Road slopes down towards the town, with the result that Glenburn is at a higher ground level than No 4. The side elevation of No 4 is set back from the shared boundary by the width of a driveway. However, the side extension to Glenburn approaches the boundary more closely such that side windows and the path to the side of the property are in close proximity to No 4.
9. The fence would be about 2.5m tall from the No 4 side but, taking into account the change in ground levels, it would be some 70cm lower on the Glenburn side. Moreover, it would only be about 94cm taller than the existing wall. Notwithstanding this relatively low increase in the height of the boundary, the fence would be around 2m from the side extension to Glenburn and therefore it would be a noticeable change to the neighbouring occupier.
10. The fence would finish roughly half way up the ground floor side window in the extension to Glenburn, which is used as a dining room. Although close to the window, the fence would still allow for natural light to enter the habitable room. Moreover, as the 2-storey bulk of No 4 is already to the west of Glenburn, the fence would be unlikely to result in any further loss of low winter sunshine to the dining room window.
11. The dining room side window is fitted with clear textured glass, which is not obscure privacy glazing and only slightly distorts views. In contrast, the fence would prevent overlooking between the neighbouring properties and it would obstruct views across the frontage of No 4. I understand that the neighbour would feel hemmed in by the fence, and the Council ultimately found that it would result in a feeling of enclosure and overbearing to Glenburn. In this regard, there would be a loss of views from the side window, exacerbated by the fall of the land along the road. However, the dining room is also served by a front-facing window, an internal part-glazed door to the rear and it is open to the kitchen of Glenburn. Consequently, while the fence would be visible from the side window, it would not be unduly overbearing nor would it enclose the

dining room. The proposal would not result in a poor standard of residential amenity for the neighbouring occupier.

12. While the kitchen of Glenburn does borrow light from the dining room, it is served by its own windows and there is little evidence that the fence would significantly reduce natural light levels in the kitchen. The fence would enclose the path to the side of Glenburn, but this is an access to the rear of the property and the fence arrangement would not be unusual in this regard.
13. I note that the height of the fence on the Glenburn side would be 20cm lower than could be constructed under permitted development (PD) rights if the neighbouring properties were at the same ground level. The theoretical exercise of PD rights does not constitute a fall back position. However, it does suggest the proposed arrangement insofar as it would affect Glenburn would not necessarily be considered unusual or prejudicial to residential amenity.
14. Therefore, I conclude that the proposal would not harm the living conditions of the neighbouring residential occupier of Glenburn, with particular regard to enclosure and an overbearing form of development. It would accord with LP policy 06 which requires, among other things, that proposals avoid unacceptable impacts on the amenity of adjoining residents through visual intrusion, overshadowing or overbearing.

Other Matters

15. The Town Council and the neighbouring occupier both object to the proposal and dispute that the fence is necessary to protect the privacy of the appellant. I understand that the neighbour has lived at Glenburn for many years and she is content with the existing arrangement. However, the proximity and elevation of Glenburn does allow close and unobstructed views towards No 4, including its side habitable room window. Moreover, persons on the path to the side of Glenburn will be both close and elevated above the occupiers of No 4, resulting in an awkward relationship between the neighbours.
16. I note that the existing wall is a corridor and habitat for small mammals and birds, and ferns grow on it. The fence would obscure a length of the wall on the appeal property side, but this would not hinder the movement of wildlife through the area nor result in any significant loss of biodiversity.

Conditions

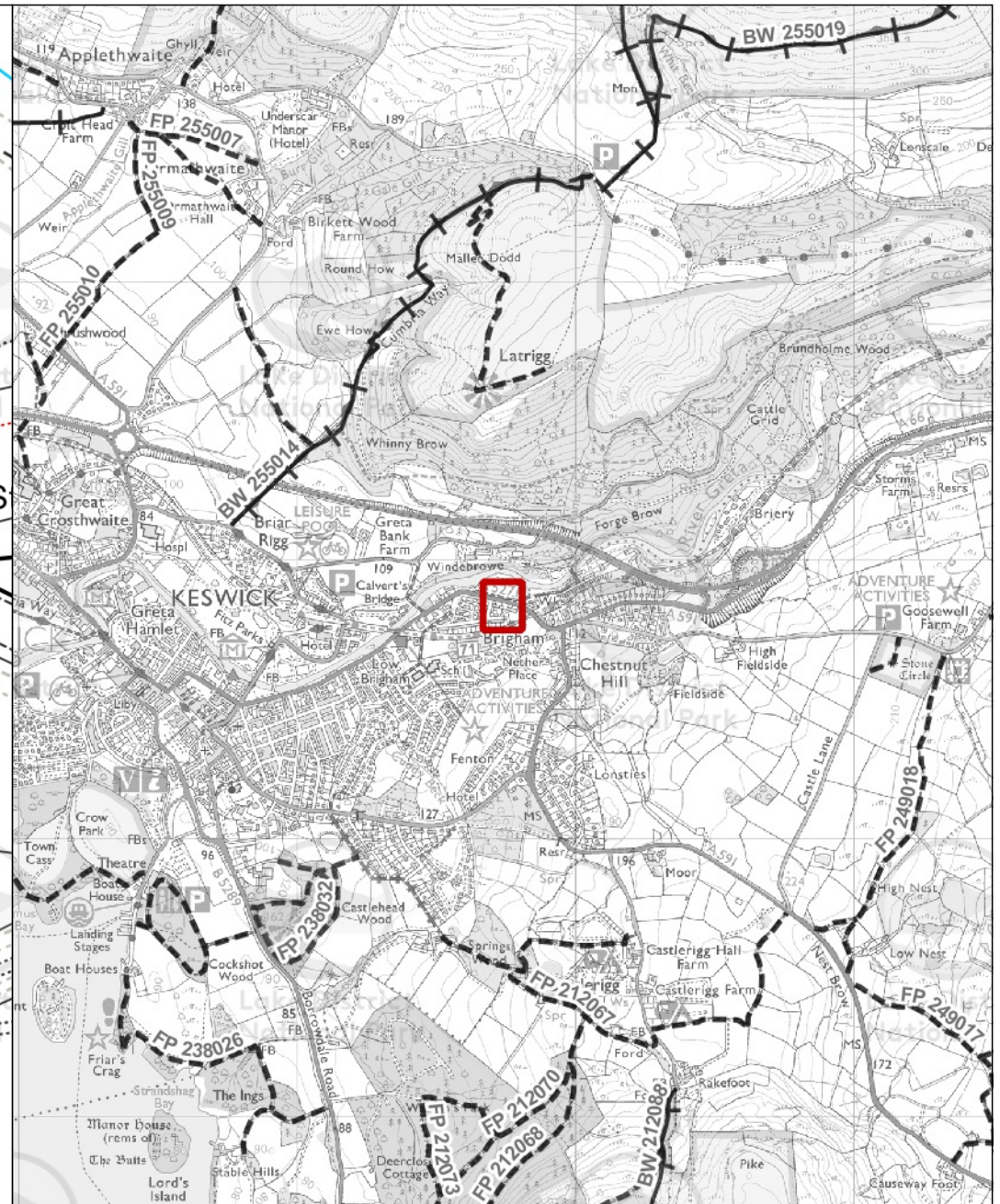
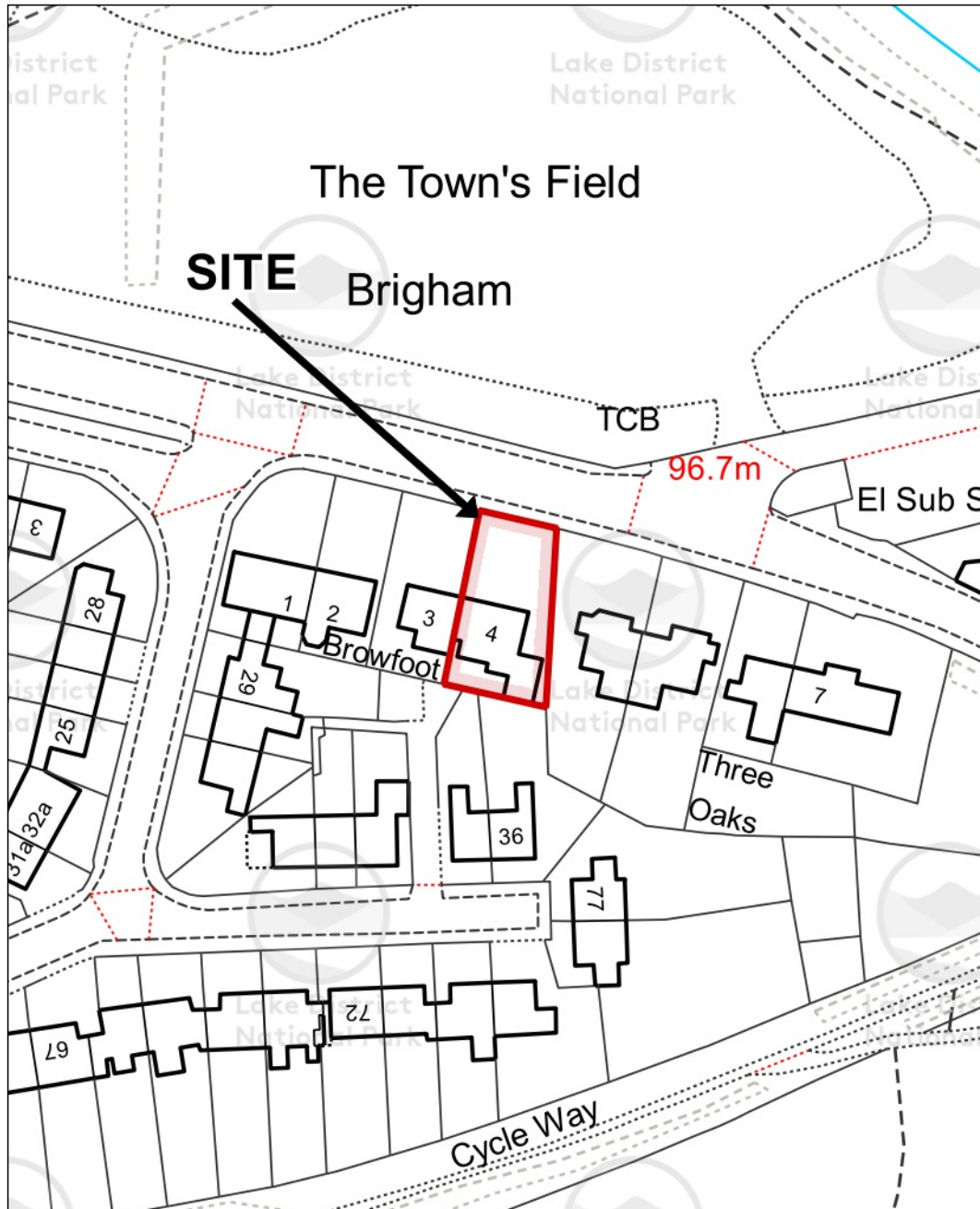
17. The Council suggests planning conditions in the event the appeal was allowed. I have considered these against the relevant tests set out in the National Planning Policy Framework. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans in the interests of certainty.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be allowed.

Sarah Manchester

INSPECTOR



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Appeal Decision

Site visit made on 9 October 2024

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 9 December 2024

Appeal Ref: APP/Q9495/W/24/3346411

Land at Penruddock, Penrith, Cumbria CA11 ORD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Miller against the decision of the Lake District National Park Authority.
 - The application Ref 7/2023/3166, dated 17 October 2023, was refused by notice dated 19 December 2023.
 - The development proposed is the erection of 2 residential units to include associated parking and access.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is in outline with all matters reserved¹. An illustrative site plan shows the intended access arrangements and dwelling footprints but these and other reserved matters would need to be determined in due course. The appeal has been considered on this basis.

Main Issue

3. The main issue is whether the proposal should be permitted having regard to the spatial strategy for the area, the settlement form of Penruddock and the effect on the character and appearance of the area.

Reasons

4. The proposal is for two detached dwellings in the north-western corner of a grass field on the southern side of the approach road from the A66 to the village. The frontage of a similar field immediately to the west is currently being developed with three detached dwellings granted permission in 2018². These are adjacent to Kohima, the first bungalow in the village on the southern side of the road, and opposite McCVe's, the first bungalow on the northern side. Of the three, one is being fitted out, the footings are in place for another and the third, adjacent to the appeal site, has not yet been started.
5. Penruddock is classified as a 'village' by Policy 02 of the Lake District Local Plan 2021 (the LDLP) where development will be required to strengthen community viability & resilience and sustain and enhance existing local service provision.

¹ According to the application form although the Council's planning report suggests access details are included.

² Reference 7/2018/3095

In Penruddock this includes a primary school, public house and church. LDLP Policy 15 allows new housing for permanent occupation by persons with a local connection and the appellant's intention is to provide self-build plots to eligible persons, the same approach as the adjacent plots. The occupancy restriction would be secured by condition. However, Hutton Parish Council note there are 11 houses currently in the process of construction in the village with a further 10 'in the planning system'. The nature of these dwellings is not reported, but in the absence of a local housing needs survey the need for further self-build plots for detached houses at this time has not been clearly established³.

6. In any event, two criteria in Policy 02 are of particular relevance to this case, namely that proposals in villages should (i) be within or relate well to the form of the settlement, and to existing buildings within the settlement, and (ii) proposals should protect, maintain or enhance local distinctiveness, character and landscape setting. These are the primary tests as to whether the proposal complies with the spatial strategy in the LDLP.
7. Penruddock is a relatively small village which comprises scattered pockets of mostly frontage development along a handful of roads. There are no culs-de-sac or housing estates. The proposal, two detached dwellings fronting onto the road, would maintain this type of layout. However, the new dwellings would extend the village along the approach road towards the A66, adding to the three detached dwellings being built next to Kohima. These already extend beyond McCVe's on the northern side of the road. The result would be the consolidation of a line of ribbon development along one side of the road and encroachment of the village further into its attractive rural surroundings. The visual benefit of removing the dilapidated shed on the site would be minimal in this context. Although there are two large agricultural buildings to the north-east, these are some distance away. Extending development along one side of the road so far beyond the last dwelling on the other would not relate well to the current form of the settlement and consequently would conflict with Policy 02 criterion (i) above.
8. Whilst next to the three dwellings under construction, the proposal would breach a hedgerow field boundary and introduce housing into the adjacent unspoilt field to the east. This hedgerow currently forms the eastern limit of the line of house plots and represents a defensible boundary for the village. The proposal, by contrast, would occupy the corner of another field with the boundaries of the two plots needing to be marked out by new fencing and/or hedging which would appear a raw feature in the landscape for some time until fully established. The new dwellings would be accessed by a shared driveway requiring removal of a section of roadside dry-stone wall and lowering further sections to provide the necessary visibility splays, both of which would harm the appearance of the wall as a feature in the rural landscape. The current limit to planned development also reflects the local topography with the road from the A66 rising gently up to the appeal site before dropping down towards the village. The new dwellings would therefore lie on higher ground than those to the west⁴, increasing their prominence in the local landscape. Although the tree covered embankment along the road from the A66 screens views of the appeal site until it is reached, the rural character of the approach to the village would be unduly eroded. Taken together the factors in this paragraph mean

³ Indeed, it is not clear that the third plot to the west has yet been sold to an eligible purchaser.

⁴ Apart from Plot 3 the other side of the hedge which is about the same height.

the proposal would not protect, maintain or enhance local distinctiveness, character or landscape setting, thus it would conflict with Policy 02 criterion (ii) set out above.

9. For these reasons the proposal would conflict with the spatial strategy for the area, not relating well to the settlement form of the village and significantly harming local distinctiveness, character and landscape setting. The proposal thus conflicts with LDLP Policy 02 and also the requirement in LDLP Policy 06 for new development to reinforce the importance of local character. It follows that the proposal also conflicts with LDLP Policies 01 and 05 which seek to conserve and enhance the extraordinary harmony and beauty of the Lake District landscape by ensuring the highest level of protection is given to the landscape and the maintenance of local distinctiveness.

Conclusion

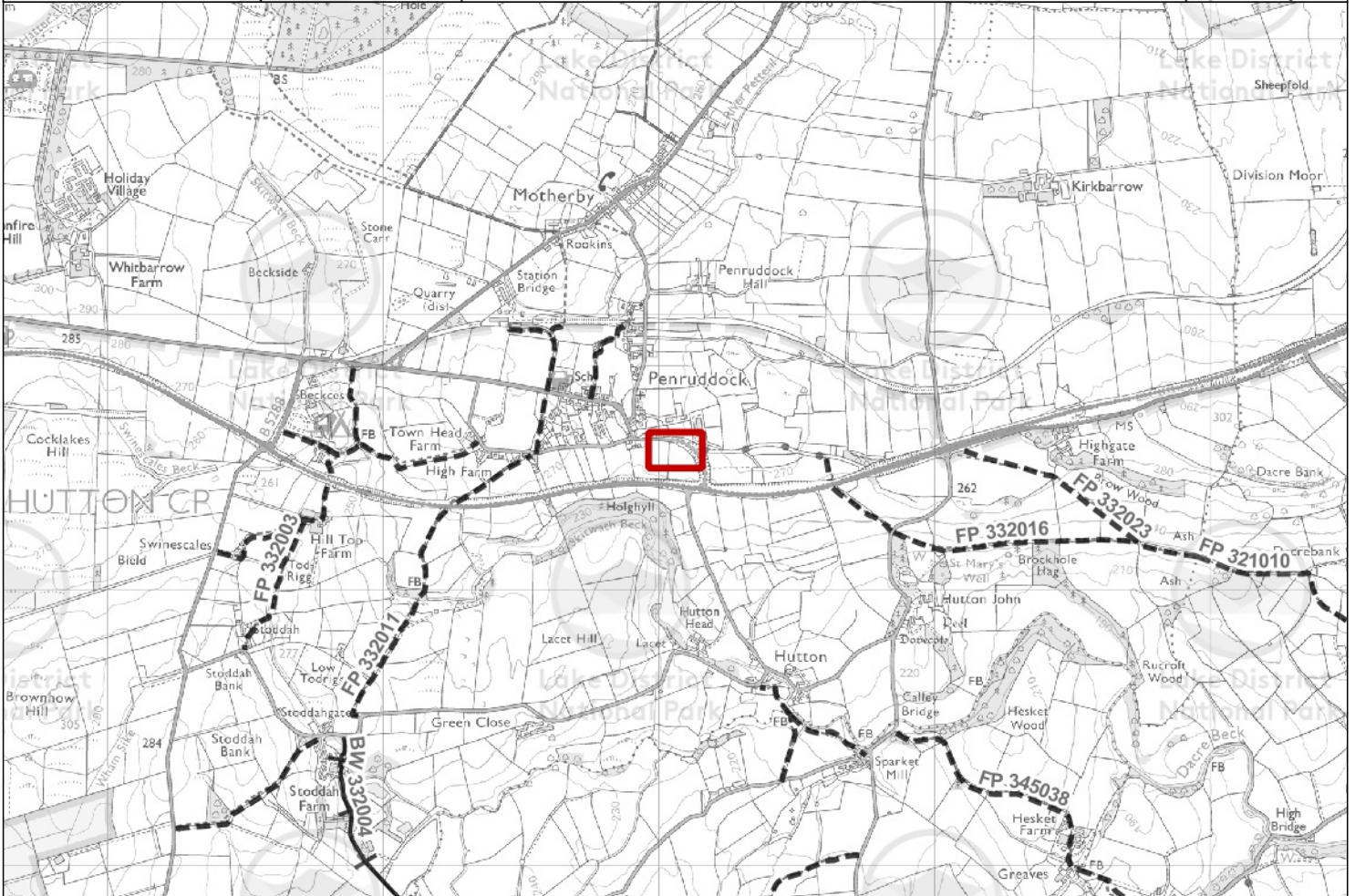
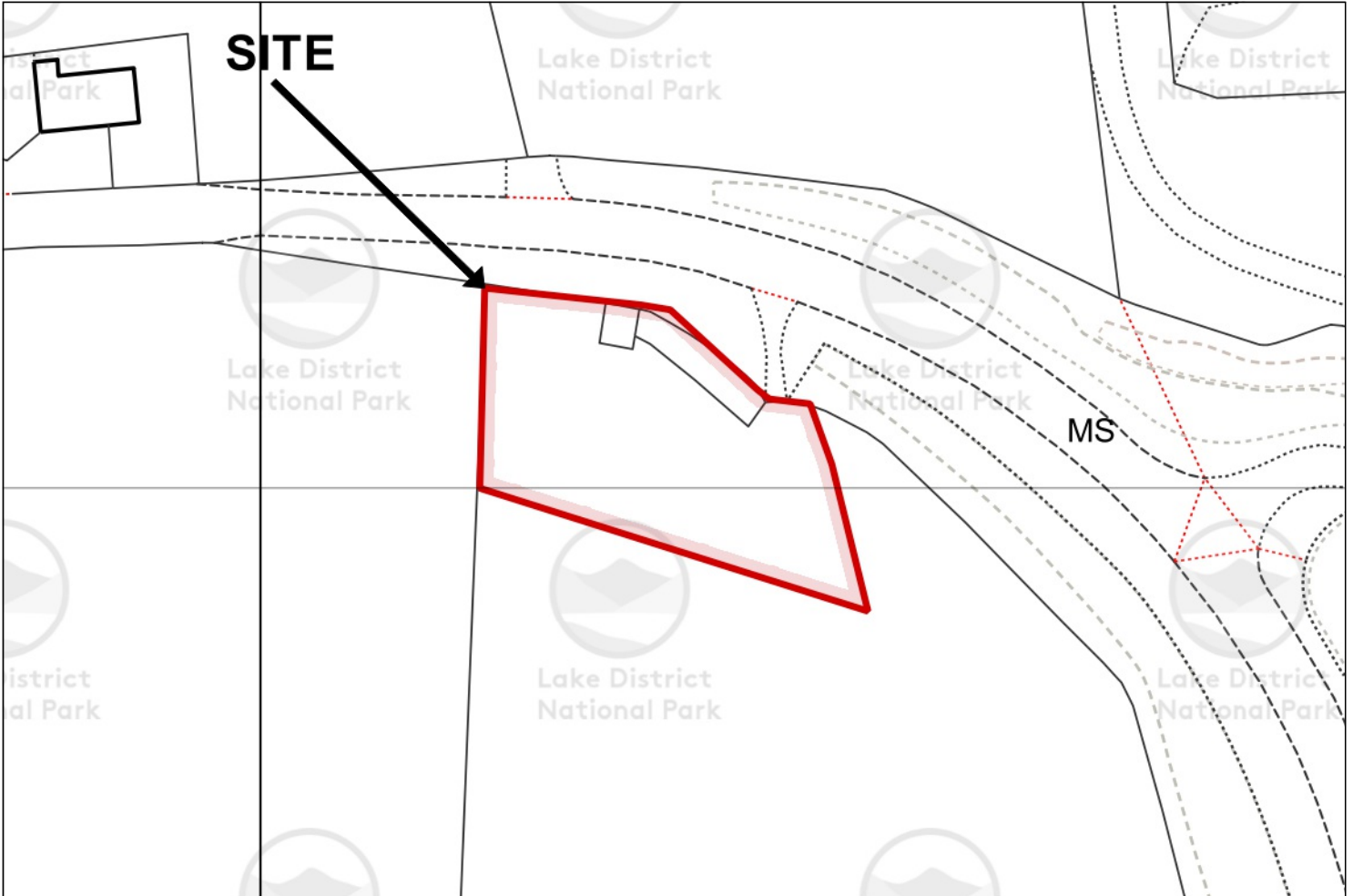
10. The proposal would provide two additional self-build family dwellings which would have economic and social benefits for the village. However, these benefits are outweighed by the lack of compliance with the spatial strategy for the area together with the harm that would result to its character and appearance and the associated conflict with the development plan.
11. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

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Appeal Decision

Site visit made on 10 December 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2025

Appeal Ref: APP/Q9495/W/24/3345056

Laverock How, Ponsonby, Cumbria CA20 1BY

- 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 Dr Richard Wheatley against the decision of the Lake District National Park Authority.
 - The application Ref is 7/2023/4081.
 - The development proposed is described as 'install 14 ground-mounted 410 W solar panels on land adjacent to the main house and barns. Install 6 kW wind turbine in field to the east of the main house. Electrical and building works required for the above.'
-

Decision

1. The appeal is dismissed insofar as it relates to the 6kW wind turbine. The appeal is allowed insofar as it relates to the 14 ground-mounted 410W solar panels at Laverock How, Ponsonby, Cumbria CA20 1BY, in accordance with the terms of the application, Ref 7/2023/4081 and the plans submitted with it, subject to the following conditions;
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans;

Site location plan
Proposed block plan, insofar as the position of the solar arrays only
Proposed PV panel elevations.
 - 3) In the event of the PV solar panels failing to produce electricity for a continuous period of 12 months, they will be deemed to have ceased to be required. The PV panels and their ancillary equipment shall be dismantled and removed from the site within 3 months of the deemed cessation date. The site shall be restored in accordance with a scheme that shall have first been submitted to and approved in writing by the local planning authority.

Preliminary Matters

2. In December 2024 the Government published a revised National Planning Policy Framework (the Framework). The parties comments in relation to the amendments have been taken into account in my decision.

Main Issue

3. The main issue in relation to this appeal is the effect of the proposal on the character and appearance of the area, having regard to the appeal site's

location within the Lake District National Park (LDNP) and the English Lake District World Heritage Site (WHS).

Reasons

4. The appellant points to Government policy being directed more to low carbon energy developments¹. Indeed, the Framework is supportive of renewable and low carbon energy and associated infrastructure, recognising that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions².
5. The Lake District National Park Local Plan (LP) 2021 identifies that the whole district has been identified as suitable for small-scale wind energy development, subject to meeting the criteria set out in other policies in the LP³. Located within both the LDNP and the WHS, the appeal site is both a designated heritage asset of the highest significance and afforded the highest level of protection for its landscape and scenic beauty⁴. Careful consideration is therefore required.
6. The appeal site falls within the Calder Valley Area of Distinctive Character (ADC)⁵, as set out in the Lake District National Park Landscape Character Assessment and Guidelines (LCAG) 2021. It advises that this area is characterised as predominantly a tranquil landscape incorporating pastoral fields and rough upland grazing, with a general absence of settlements or farmsteads. The sense of tranquillity particularly in the north and east of the ADC is said to be derived from the openness and perceived naturalness of the pastoral landscape. The LCAG identifies that this ADC has significant sensitivity to the cumulative impacts of vertical infrastructure.
7. In considering the impact of development on the significance of the WHS as a designated heritage asset, I attach great weight to the asset's conservation⁶. The Authority advises that the case for Outstanding Universal Value for the WHS is based on a combination of attributes, the most relevant being the extraordinary beauty and harmony of the landscape, combined with its continuous and distinctive agro-pastoral system. Being an undeveloped agricultural field, the appeal site contributes positively to the aesthetic and cultural value of the WHS.
8. The proposal seeks permission for a 11.8m high micro-scale wind turbine and 2 solar arrays on 2 separate parcels of land, either side of the driveway. I will deal with each proposal in turn below.

Wind Turbine

9. Laverock How is a traditional farmhouse with outbuildings that nestle down into the rolling topography of its hillside location. Whilst the land to the north-east rises relatively steeply, land to the south-west rises more gently. I observed that the appeal site for the proposed turbine, visually forms part of the wider pattern of surrounding pastoral fields, being elevated and separate from the building group which is visually contained by a group of trees. This arises from its undeveloped and open character. The appeal site marks the start of the transition from small-scale field enclosures to open fell above.

¹ Email to PINs dated 5 January 2025.

² Paragraphs 161 and 168b) of the Framework.

³ Paragraph 3.20.06 of the supporting text to Policy 20 of the LP.

⁴ Paragraph 189 of the Framework.

⁵ As set out in the Lake District National Park Landscape Character Assessment and Guidelines (2021).

⁶ As directed by paragraph 212 of the Framework.

10. It is suggested that the proposed turbine has been designed and positioned to have minimal impact on the spectacular landscape. Whilst not questioning the overall need for the proposed turbine, there is no supporting information supplied to explain whether other locations were considered and dismissed for landscape or operational reasons. Neither is there any information to explain the lifetime of the proposed turbine, what contribution it would make to the energy needs of the appellant, or the noise that would be generated. This is particularly important given that tranquillity is identified as a defining characteristic of the ADC.
11. The vehicular track which leads to Laverock How forms part of the public rights of way (PROW) network leading to Ponsonby Fell. Given the proposed position of the turbine on elevated land, it would be seen at both close range and more medium distance views from the PROW to both the north-east and south-west as well as the road to the south-west. Although it is suggested that the turbine would be situated several hundred feet below the top of a slope, in views from the PROW, it would break the skyline and would not be seen against the backdrop of rising land, trees or in the context of other vertical structures. In this regard, I find the context of the appeal site entirely different to that of the Lorton Vale example cited by the appellant which has a treed hillside setting⁷.
12. Telegraph poles and lighting columns do exist close to the appeal site but they are static, sited at a lower land level and generally do not protrude above the skyline in views from the road and PROW. Even if I could accept that the turbine movement would appear as a blur due to the short blades and fast spin ratio, it would not diminish the visibility of the turbine or its landscape impact in public views.
13. Towers and structures at Sellafeld, along with other wind turbines are visible in long distance views from the appeal site. However, it seemed to me that these were on land outside of the LDNP in the more developed coastal fringe. Their presence does not justify permitting development that would result in visual harm.
14. The plans indicate that the tower and frame of the proposed turbine would be of a galvanised grey colour, not the dark colour suggested by the appellant. This could be dealt with by a condition but given that the proposed turbine would break the skyline in the majority of close and medium distance views, I am not convinced that a dark colour would be appropriate in this particular instance. In any event it would not wholly mitigate the visual impact of the turbine.
15. From my observations and in the absence of a landscape visual impact assessment to demonstrate that the appeal site could satisfactorily absorb the development proposed, I find that the proposal would result in a conspicuous form of development that would contrast unfavourably with the undeveloped bucolic pastures of which it forms part. Adverse harm would therefore be exerted on the local landscape which would similarly incrementally diminish the significance of the WHS. Although the harm would be modest, given the size and extent of the proposal, it nonetheless amounts to less than substantial harm, to which I am required to give considerable importance and weight. The Framework further directs me to weigh such harm against the public benefits of a proposal.

⁷ As shown in the image on page 2 of the appellant's statement of case.

Heritage Balance

16. The appeal site is remote and the security of energy provision is important to sustain rural living. The generation of on-site renewable energy would lessen the reliance on heating oil and generator diesel. However, no quantifiable data has been provided to demonstrate the current energy demands of the dwelling and the appellant's agriculture and forestry business or the specific contribution that the turbine would make to reducing associated carbon emissions. In the absence of such data, I am unable to attach anything other than limited weight to the environmental benefits of the proposal.
17. Notwithstanding that there is in principle support for renewable energy generation, given the importance of the National Park landscape and WHS, a precautionary approach is reasonable. There may be other technologies that could be employed, or an alternative siting and design of a turbine, that would not generate the same degree of harm as the proposal. Alternatively, a quantifiable reduction in carbon emissions could be proven.
18. The public benefits of the proposal have not been fully demonstrated and are therefore insufficient to outweigh the considerable importance and weight to be given to the harm to the significance of the WHS.

Solar Arrays

19. The proposed solar arrays would be sited in 2 linear arrangements on the appeal site to the south of the driveway. The Authority has not raised an objection to this element of the scheme given their location close to an existing boundary wall and range of outbuildings.
20. The arrays may be visible in medium distance views from the PROW to the south. However, as they would be positioned on the ground, against the backdrop of an existing built feature, I am satisfied that they would not be particularly conspicuous. In this regard, I share the Authority's view that little, if any, harm to the landscape and WHS would arise as a result of the proposed solar arrays. In the absence of any harm, I am not required to consider the public benefits of this aspect of the scheme further.

Conclusion - Main Issue

21. For the above reasons, the proposed turbine would have an adverse effect on the character and appearance of the area including the local landscape and WHS. It would conflict with Policies 01, 05 and 07 of the LP. Together these policies seek to conserve and enhance the extraordinary harmony and beauty of the landscape and its special qualities, as well as the significance of heritage assets. Whilst the Framework supports renewable energy developments, conflict is found with its aims in respect of the natural and historic environments which have the highest status of protection.
22. The solar arrays are modest and discreet in nature and would be assimilated by their proximity to existing built features. They would not cause harm to the landscape character of the LDNP or the WHS. They would therefore, be in conformity with Policies 01, 05, 07 and 20 of the LP. These policies in combination, seek to support renewable energy developments that conserve and enhance the local landscape and WHS. As the solar arrays are physically and functionally severable from the proposed turbine, they are capable of being built independently. A split decision would be appropriate in this instance.

Other Matters

23. Reference is made to an approval for a turbine elsewhere within the LDNP⁸. I have not been furnished with the plans, decision notice or officer report to be able to determine whether there are similarities with the appeal proposal. Likewise, although it is suggested that there was a wind turbine in the same location, I am not aware if it had planning permission and if so, what the circumstances of its grant were. Irrespective, it is not there now and so it has no bearing on the current context of the appeal site. I have no evidence of how the proposal would contribute to the Government's aspirations for the Energy Coast.

Planning Balance

24. I have found that the proposed solar arrays would not be harmful to the landscape or WHS. This weighs neutrally in the planning balance. The benefits that would arise from the proposed turbine have not been fully evidenced such that they attract limited weight. These matters do not outweigh my findings in respect of the moderate adverse effect upon the character and appearance of the area, with regard to the LDNP and the WHS.

Conditions

25. In respect of the proposed solar arrays, as well as the standard time limit, conditions are imposed to list the plans in the interests of certainty, and for the removal of the panels once their use ceases, in the interests of the landscape and WHS.

Conclusion

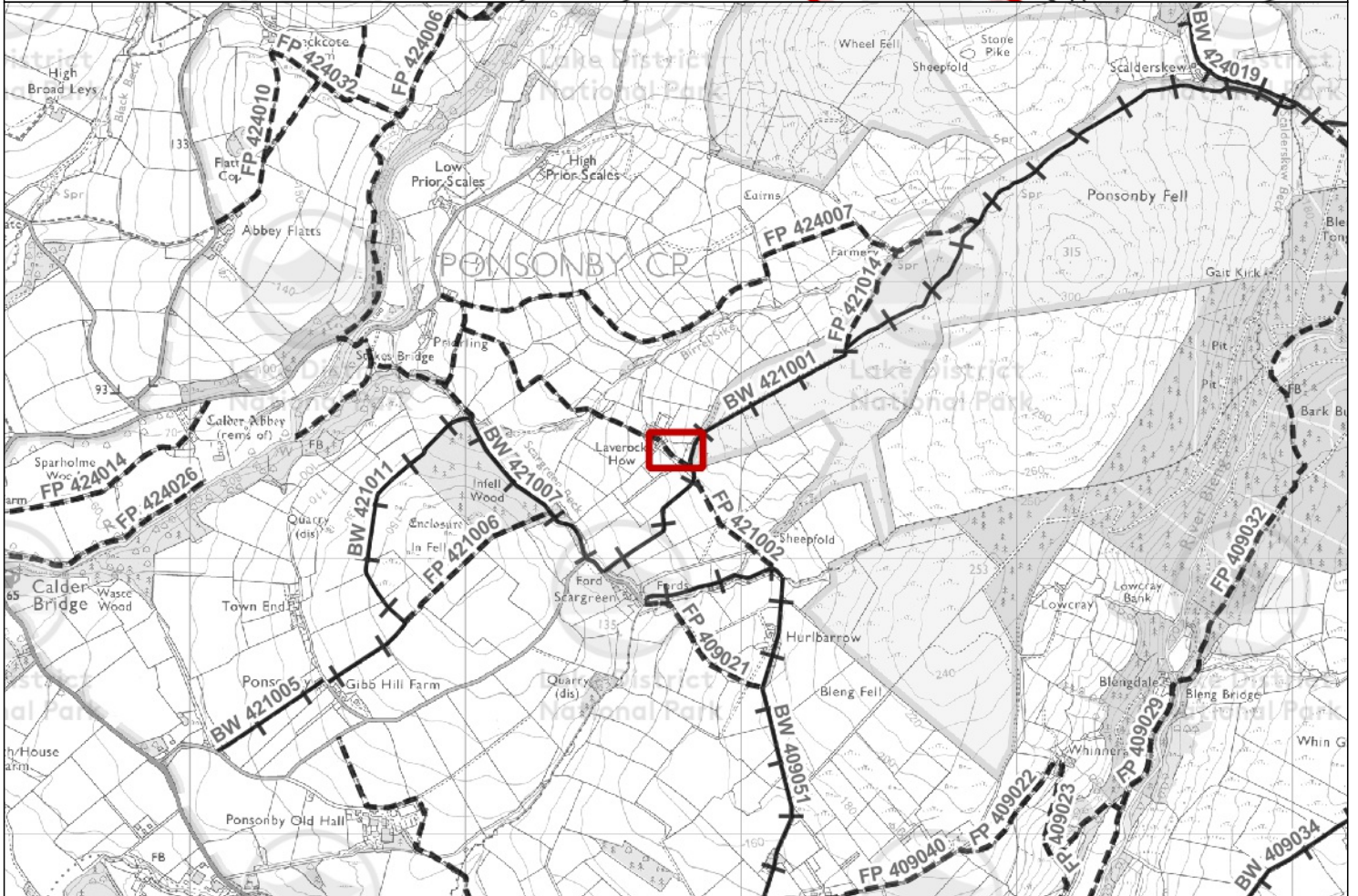
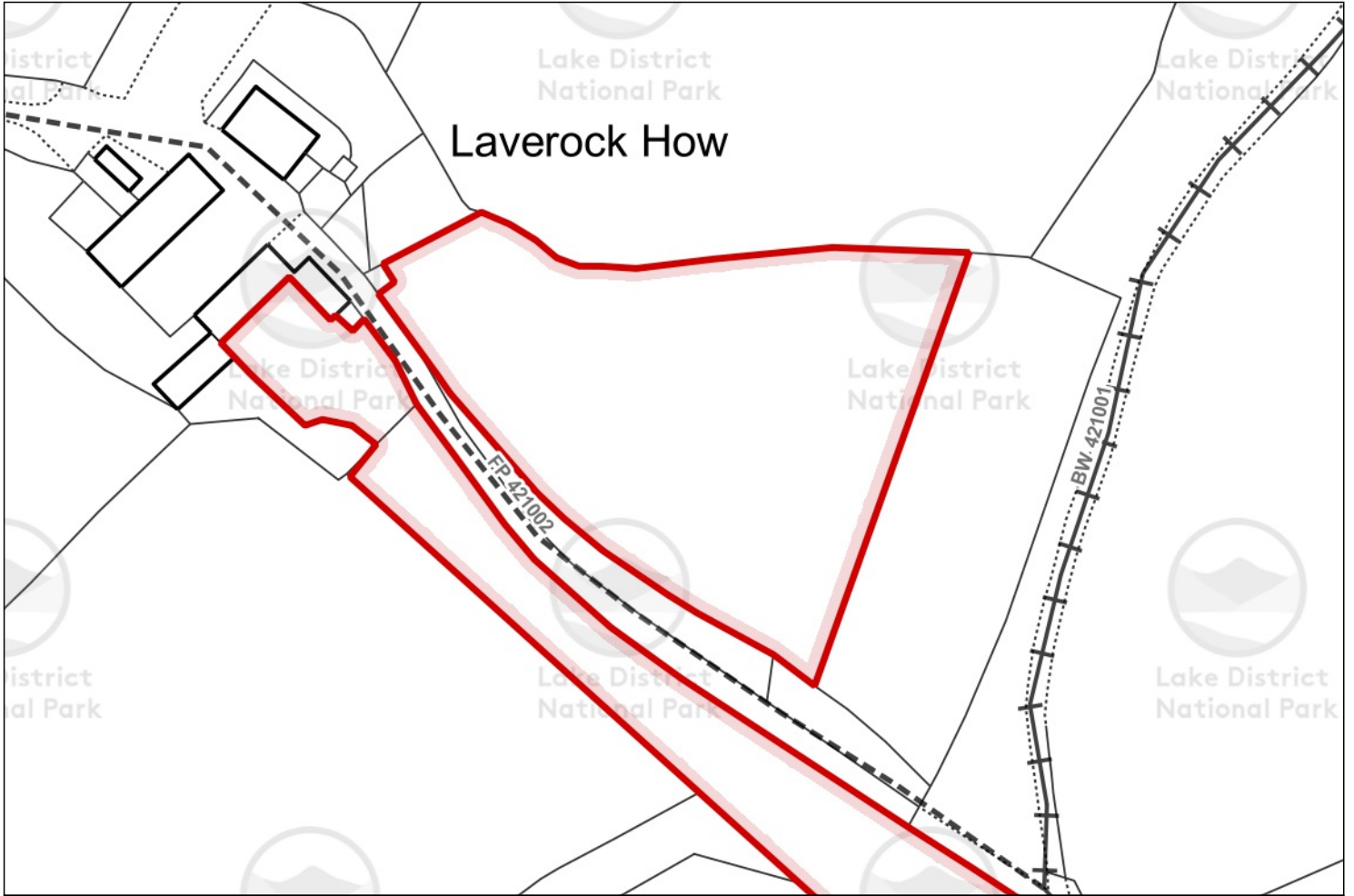
26. In coming to my decision, I am conscious that there have been no objections to the application, rather that there is local support including from the parish council. However, support for a proposal does not indicate a lack of harm. Given the location of the appeal site in an area of the highest landscape and heritage designation, and the lack of evidence regarding the benefits of the scheme, it is reasonable to take a precautionary approach.

27. For the reasons given, the appeal succeeds in relation to the proposed solar arrays. However, in relation to the proposed turbine, the appeal should be dismissed.

M Clowes

INSPECTOR

⁸ Planning application reference 7/2023/2061.



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Appeal Decision

Site visit made on 13 November 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2024

Appeal Ref: APP/Q9495/W/24/3345975

Bankend Farm, Torver, Coniston LA21 8BT

- 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 Cooper against the decision of Lake District National Park Authority.
 - The application Ref is 7/2023/5670.
 - The development proposed is creation of access and farm track (retrospective).
-

Decision

1. The appeal is allowed and planning permission is granted for creation of access and farm track (retrospective) at Bankend Farm, Torver, Coniston LA21 8BT in accordance with the terms of the application, Ref 7/2023/5670, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, including the Lake District National Park (LDNP), the English Lake District World Heritage Site (WHS), and the setting of the listed buildings.

Reasons

3. The appeal site runs alongside the highway, encompassing a stretch of stone wall and part of the field to the south-west of the existing farm buildings. The appeal scheme includes the provision of a new vehicular access and the laying of an access track across this field. To facilitate this, a short segment of the stone wall has been removed. Furthermore, to ensure sufficient visibility at the access, a 33 metre stretch of the remaining wall to the east of the access is proposed to be lowered to no more than 1 metre in height. A new hedgerow is also proposed to be planted behind this wall.
4. At the time of my site visit I saw that the new access had already been created, and the access track across the appeal site had been laid. The proposed lowering of the boundary wall and hedgerow planting had not occurred. The appeal is therefore considered, in part, retrospectively.
5. As a site within the designated LDNP¹, there is a statutory duty² 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. Paragraph 182 of the National

¹ National Parks and Access to the Countryside Act 1949 (as amended)

² Levelling-up and Regeneration Act 2023

Planning Policy Framework (the Framework) requires great weight to be given to these purposes.

6. The WHS is a heritage asset of the highest significance. Paragraph 205 of the 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. The WHS derives significance and its Outstanding Universal Value from the landscape and traditional human activity, including the distinctive agro-pastoralism which give it its special character.
7. The Landscape Character Assessment³ (LCA) describes this area as having a ridged and hummocky topography. Belts of linear broadleaved woodland punctuate the network of fields. Field boundaries are delineated by a combination of mature hedgerows and traditional stone walls. The Lake District Design Code Adopted September 2023 notes that drystone walls are a traditional form of boundary treatment within the National Park. The provision of hedgerows as boundary features is also advocated.
8. I saw that, in the vicinity of the appeal site, boundaries between fields and the highway vary in composition, including a mix of stone walls and hedgerow, of varying heights. The wall opposite the appeal site is lower in height. There are also local examples of boundaries composed entirely of hedgerow, and some with hedgerow behind or integrated with walls. This combination of enclosures positively contributes to the locally distinctive and agro-pastoral character and appearance of the area.
9. Based on the evidence and my own observations, the wall would finish above the ground level behind it. Though the ground level would eventually rise higher than the wall, this is a feature of the local topography and common in this and neighbouring fields. While this could have exposed part of the track at the higher part of the field, the planting of a hedgerow behind the wall and outside of the visibility splays would be sufficient to adequately mitigate any harmful views of the track from the road. Details of the height and density of the hedgerow as planted can be agreed through a landscaping condition.
10. In the above context, the provision of a combination of a lowered stone wall with hedgerow behind at the site would not appear incongruous or detract from the character of the area. It would therefore also not have a harmful effect on the significance of the WHS.
11. The appeal site also sits within the setting of five Grade II listed buildings (LB). These are arranged around the farmyard to the north-east of the appeal site. Special regard must be given to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which they possess⁴. In so far as it relates to this appeal, the significance of the LBs is derived from their traditional agricultural form and appearance, consistent materials and features, and their relationship to one another and the surrounding landscape.
12. The affected wall forms part of a network of walls in the setting of the LBs, which delineate field boundaries. It is viewed in the same context as the LBs,

³ Lake District National Park Landscape Character Assessment and Guidelines Revised April 2021

⁴ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

particularly when approaching from the southwest. Nevertheless, the development would be in keeping with the character and appearance of the area and the alterations to the boundary wall and soft landscaping would not harm the setting of the heritage assets or legibility of historic agricultural practices at the site. The appeal scheme would thus have a neutral effect on the LBs and would preserve their aesthetic and historical significance.

13. I conclude that the appeal scheme would not have a harmful effect on the character and appearance of the area, including the LDNP, the WHS, and the setting of the LBs. It is in accordance with Policies 01, 05, 06 and 07 of the Lake District National Park Local Plan 2020-2035 Adopted May 2021. These policies, among other provisions, seek to ensure development proposals are consistent with the National Park purposes and duty and that they protect the authenticity, integrity and significance of the Lake District. They support development that maintains local distinctiveness and sense of place, guided by the LCA, and that reinforces the importance of local character. They also seek to conserve and enhance the significance of heritage assets.

Conditions

14. The Authority has suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the Planning Practice Guidance and the tests for conditions set out in Paragraph 56 of the Framework.
15. In addition to the landscaping condition referred to above, it is necessary to specify the approved plans as this provides certainty.
16. In the interests of highway safety, conditions are also required to ensure there are no gates opening outwards towards the highway, the first five metres of the access is hard surfaced with bound material, the first ten metres of the access is given a gradient of 1 in 25, and visibility splays are provided and maintained as proposed.
17. A condition is also required to secure details of surface water drainage measures, in the interests of highway safety and to reduce the risk of surface water flooding.

Conclusion

18. The appeal scheme adheres to the development plan as a whole and there are no other considerations that would outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Ryan Cowley

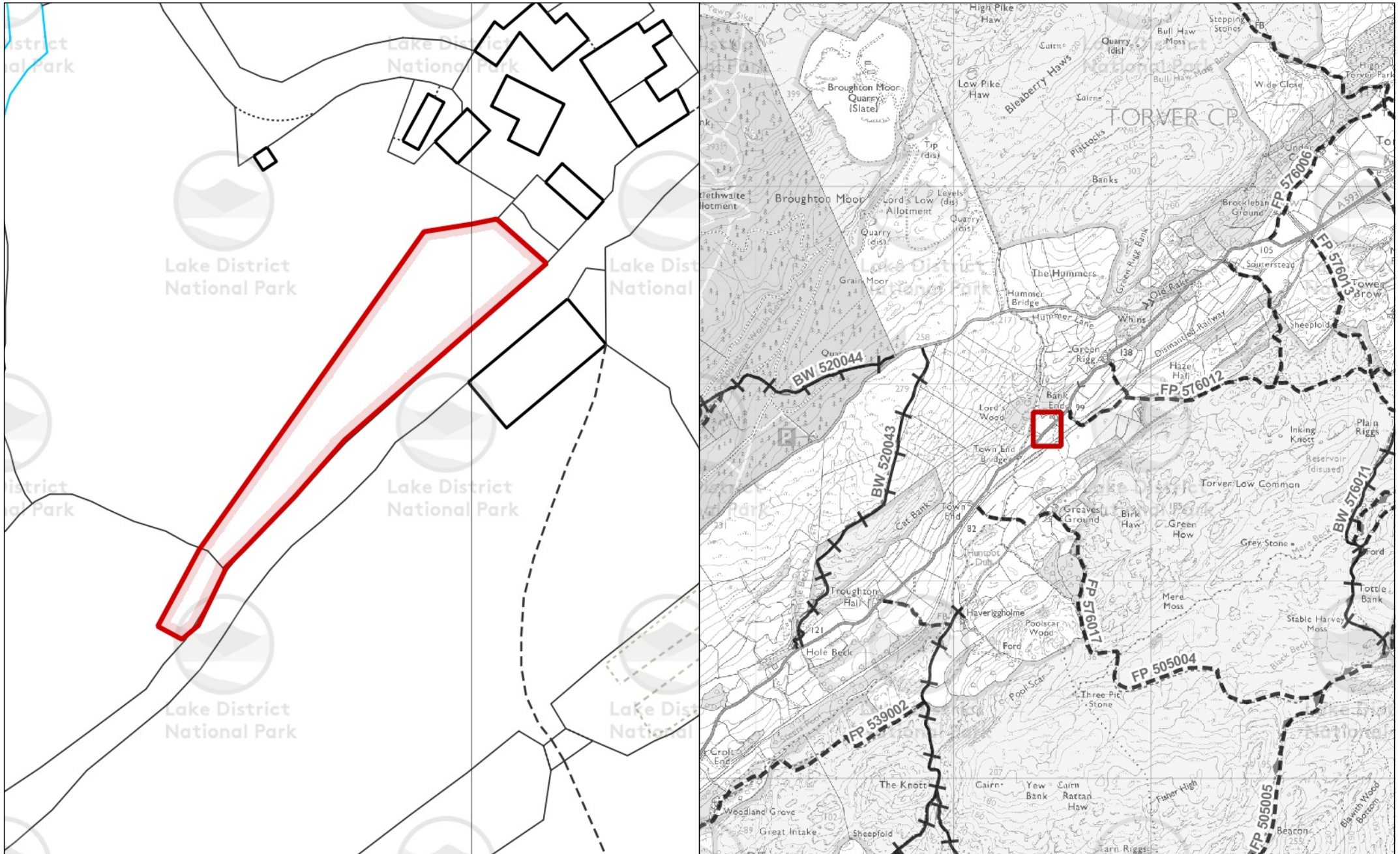
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos:
PB1a (Location Plan)
D01f (Site Plan)
- 2) Within one month of the date of this decision, visibility splays shall be provided in accordance with the details shown on drawing no. D01f (Site Plan). The drystone wall to the north east of the access hereby permitted shall be reduced to one metre in height and finished to match the appearance and construction method of the existing drystone wall. Notwithstanding the provisions of the Town and Country Planning (General Development)(England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay shown on the approved plan which obstruct the visibility splays.
- 3) Within three months of the date of this decision, drainage measures to prevent surface water discharging onto the highway shall be installed in accordance with details which shall have first been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the drainage measures shall be maintained in accordance with the approved details.
- 4) Within three months of the date of this decision, the first five metres of the access, measured from the carriageway edge, shall be hard surfaced with bound material.
- 5) Within four months of the date of this decision, the first ten metres of the access, measured from the carriageway edge, shall be given a gradient of 1 in 25.
- 6) Within nine months of the date of this decision, landscaping of the site shall be undertaken in accordance with the details of a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The said scheme shall include details of the quantity, size, species, position and method of planting of the proposed hedgerow. Any trees or plants which, within a period of five years thereafter, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.
- 7) No gates shall open outwards towards the highway.

END

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Appeal Decision

Site visit made on 13 November 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

Appeal Ref: APP/Q9495/W/24/3343894

7 Brantfell Walk, Bowness, Cumbria LA23 3AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Russell Lilliebridge against the decision of Lake District National Park Authority.
 - The application Ref is 7/2024/5016.
 - The application sought planning permission to “divide the block in red to create 2 separate dwellings for the purpose of being able to rent or sell individually making an additional local occupancy home (resubmission of 7/2023/5227)” without complying with a condition attached to planning permission Ref 7/2023/5617, dated 28 November 2023.
 - The condition in dispute is No 6 which states that: “Prior to the first use of the development hereby permitted, at least 30 percent of the operational energy requirements of the development shall be secured from decentralised, district heating and/or renewable or low-carbon energy sources. Details and a timetable of how this is to be achieved, including details of any physical works on site, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.”
 - The reason given for the condition is: “In the interests of increasing the proportion of energy generated through renewable and low carbon sources in accordance with Policy 20 of the Lake District National Park Local Plan 2020-2035.”
-

Decision

1. The appeal is dismissed.

Preliminary Matters, Background and Main Issue

2. Planning permission was granted in 2018¹ for the construction of the appeal building. The appellant states that they were led to believe this granted planning permission for an independent permanent dwelling. However, the evidence before me indicates that planning permission was granted for an annex only, and I saw on my site visit how the building is closely related to the main house, including sharing an access and garden space. A further planning permission was granted in 2023² to subdivide the site and change the use of the annex into a local occupancy dwelling.
3. The appeal is seeking to remove condition No 6 of the 2023 planning permission, which sought to secure at least 30 percent of the operational

¹ Authority Ref 7/2017/5785

² Authority Ref 7/2023/5617

energy requirements of the development from decentralised, district heating and/or renewable or low-carbon energy sources. The condition required details of any physical work and a timetable for its implementation. The reason for this condition indicated it was applied pursuant to Policy 20 of the Lake District National Park Local Plan 2020-2035 Adopted May 2021 (the Local Plan).

4. The Authority refused planning permission in this case as it considers that the appellant has failed to provide any material considerations to support the removal of the condition, including evidence on the feasibility or viability of the development.
5. The main issue is therefore whether the removal of condition No 6 would be acceptable, with regard to the provisions of the development plan that relate to renewable and low-carbon energy, and the feasibility and viability of the development.

Reasons

6. The appeal building was granted planning permission prior to the adoption of the Local Plan, and so was not subject to the provisions of Policy 20. That development has been complete and so the appeal relates to an existing building. Nevertheless, the evidence indicates that the appeal proposal would result in a material change of use of the building and land to provide a separate dwellinghouse. The making of any material change in the use of any buildings or other land would be new development as defined within Section 55 of the Town and Country Planning Act 1990 (as amended).
7. Paragraph 162 of the National Planning Policy Framework (the Framework) states that in determining planning applications, local planning authorities should expect new development to comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable.
8. Policy 20 of the Local Plan requires that all new housing developments generate 30 per cent of their operational energy requirements through decentralised, district heating and, renewable and low-carbon energy sources. The policy provides an exception to this requirement where it is deemed to make a development unfeasible or unviable, however this must be demonstrated by the applicant through an independent viability assessment.
9. The appellant contends that compliance with the condition would not be beneficial for several reasons, including financial costs, lack of environmental benefits and harm to the fabric of the existing building.
10. In the first instance, the appeal is not supported by an independent viability assessment. While additional costs would invariably be involved in the provision of a new energy generation or heating system, these have not been clearly articulated in the evidence. The resultant value of the property, taking into account the local occupancy restriction, has also not been clarified.
11. Consideration has been given to the provision of solar panels for the main house previously, and the appellant advises this would have been of no environmental benefit. However, no substantiated evidence in respect of this has been provided and so it is not clear when this assessment was made, the efficacy of the technology considered, or what the cost would have been.

12. Moreover, this does not relate to the appeal building, which is smaller in size and is stated to have low energy demands. While I recognise the appeal building is shaded at times due to its position in relation to neighbouring buildings and trees, the efficacy of contemporary solar panels and/or energy storage to serve this building and associated costs does not appear to have been thoroughly investigated.
13. Consideration has also been given to the installation of an air source heat pump. The appellant contends that this would add a considerable burden to the property value, requiring replacement of the existing heating system, including removal of all existing electric radiators and the water heater, and extensive repair work.
14. It has not been demonstrated that the complete replacement of the heating system is necessary to comply with the condition. Even if this were the case, neither the full extent of the work required, nor the cost, have been clearly set out. It has also not been clarified why parts of the existing heating system are unable to be resold and/or reused. It therefore has not been demonstrated that compliance with the condition would be financially unviable or unfeasible.
15. The evidence before me does not demonstrate that a heat pump would need to be located under the bedroom window, or that this would have an unduly harmful impact on future occupiers with regard to noise. There is also no substantiated evidence that the production and installation of a heat pump, water heater and pipes would far outweigh any environmental benefits.
16. The appellant indicates that the existing building has a very efficient electric heating system and is well insulated, using very little energy. Nevertheless, this does not in itself demonstrate compliance with the requirements of Policy 20 of the Local Plan in respect of renewable and low-carbon energy provision.
17. The supporting text to Policy 20 indicates that, if the development proposal is a conversion of an existing building, in some circumstances the character of a building may outweigh the need to meet 30 per cent of its operational energy requirements through renewable and low carbon energy sources. There is no compelling evidence before me to indicate that this would apply in this case.
18. While the proportion of electricity provided by the national grid generated from renewable sources may increase over time, this does not demonstrate that the current proposal is compliant with the provisions of Local Plan Policy 20 or justify a departure from the development plan at this time.
19. The removal of condition No 6 would thus not be acceptable, with regard to the provisions of the development plan that relate to renewable and low-carbon energy, and the feasibility and viability of the development. Policy 20 of the Local Plan seeks to increase the proportion of energy generated by renewable and low carbon sources. This is consistent with the Framework, and in particular Paragraph 160 which seeks to increase the use and supply of renewable and low carbon energy and heat and requires development plans to provide a positive strategy for energy from these sources.

Other Matters

20. While there is no information before me regarding the affordability of the dwelling, I recognise that it would provide additional housing for local residents and thus contribute to the local housing supply. Nevertheless,

planning permission has already been granted for the change of use and there is no compelling evidence to demonstrate that this is undeliverable without the removal of the condition.

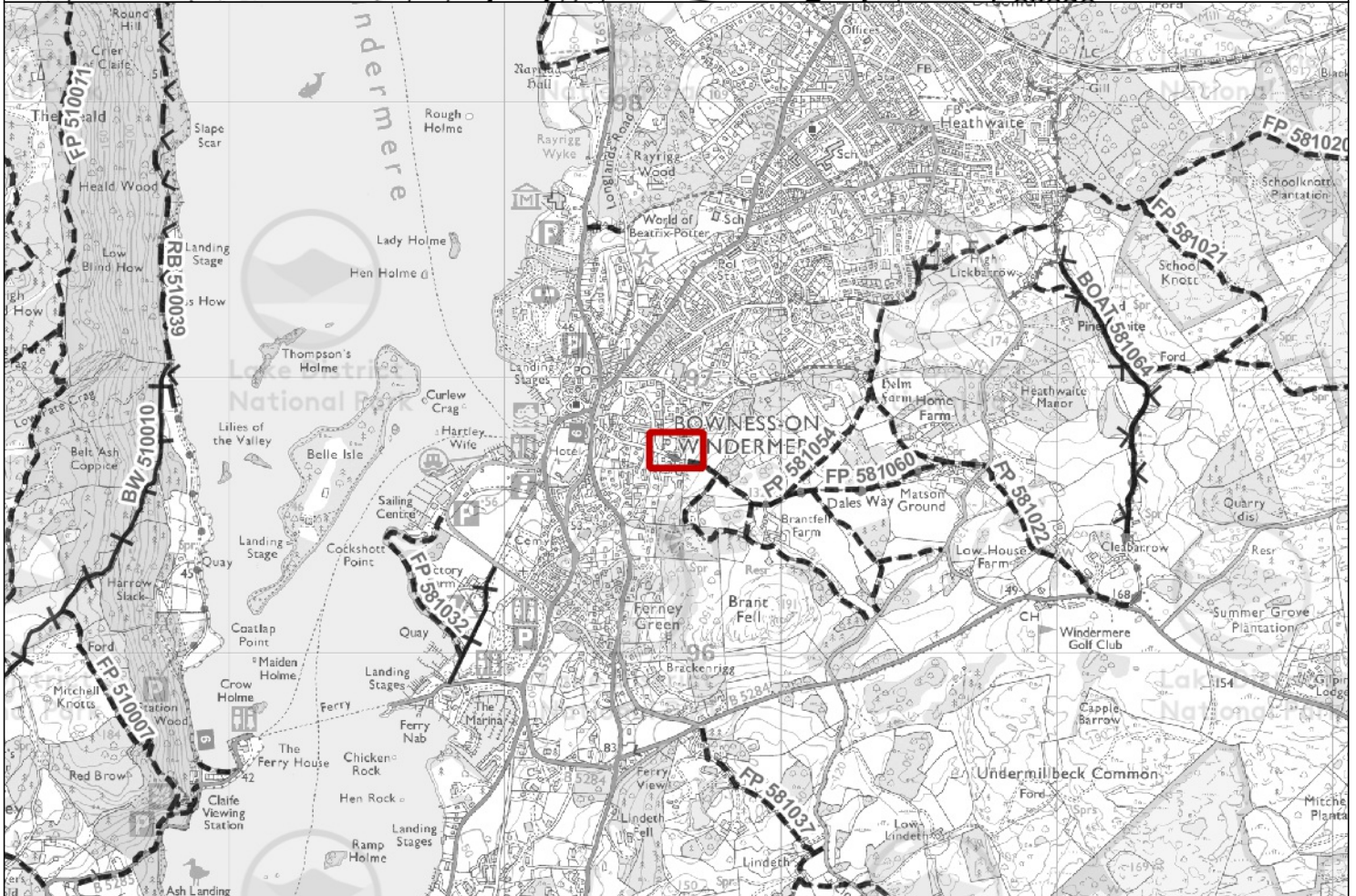
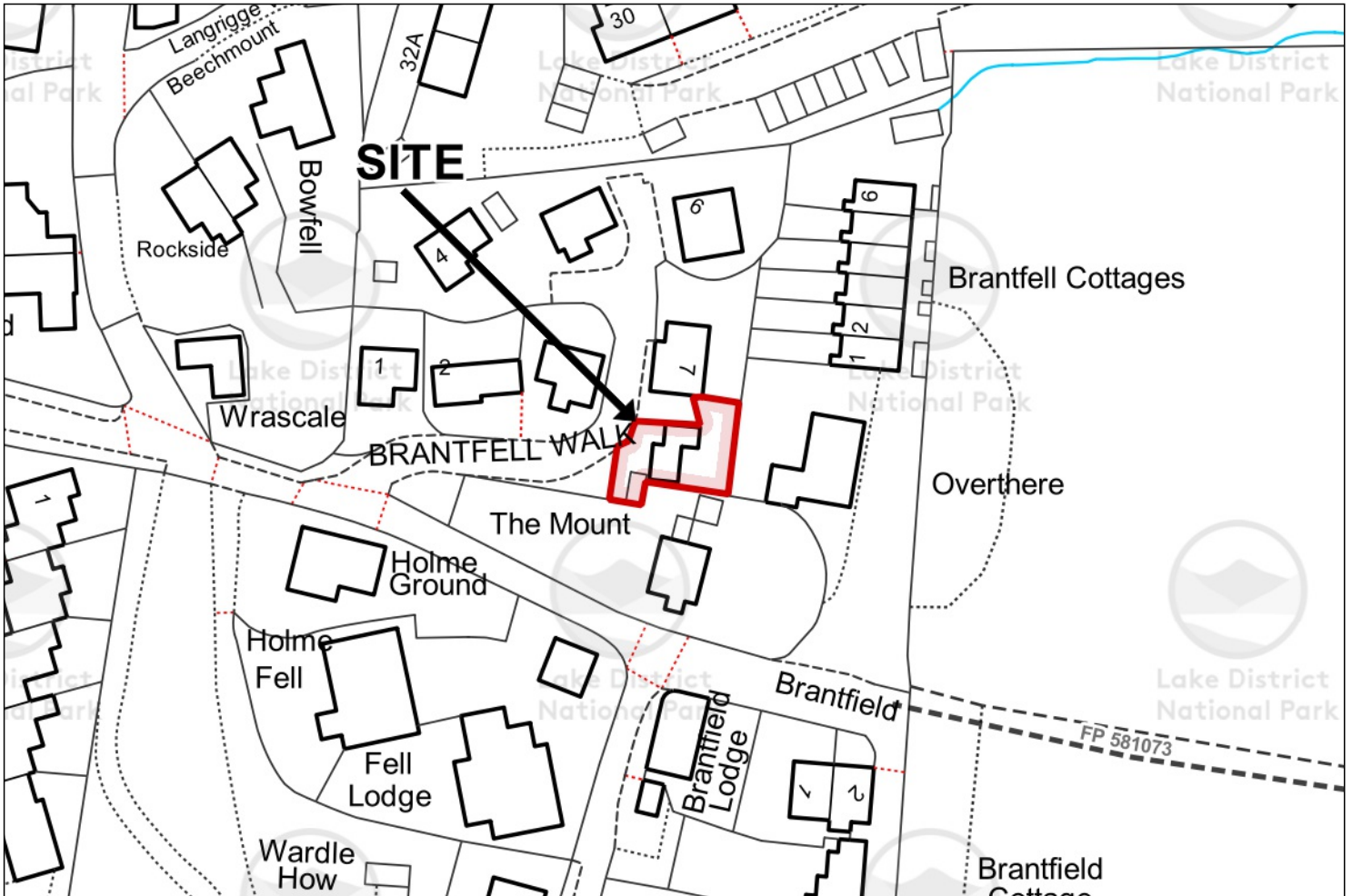
21. While the development may be compliant with other provisions of the development plan, including those pertaining to local occupancy restrictions, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.
22. No objections were received in respect of the application, and Windermere & Bowness Town Council indicated their agreement with the appellant's position. Nevertheless, this does not in itself demonstrate compliance with the development plan or outweigh the identified conflict.
23. The Framework acknowledges the benefits of early engagement and good quality pre-application discussion. The absence of pre-application advice is therefore regrettable. However, this cannot lead me to a different conclusion on the main issue.

Conclusion

24. The appeal proposal conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR



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