



**Lake District
National Park**

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**Report from the Head of Development Management to the
Development Control Committee**

Application number:	7/2025/4038
Application type:	Full Planning application
Applicant:	Mr G Race
Location:	Low Wood Cottage, Wasdale, Seascale, CA20 1ET
Grid reference:	312210 504265
Proposal:	Retention of existing fish pond, summerhouse and car port, and change of use of land to garden area
Report prepared by:	Kelsey Blain, Planner
Report agreed by:	Neil Henderson, Planning Manager
Recommendation:	REFUSE

1 About this report

- 1.1 The case planner has prepared this report, assessment and recommendation taking into account our policies (known as the Development Plan), written representations we have received, and any other material considerations.
- 1.2 Material considerations are things that are relevant to our decision making and which we are able to take into account – for example site specific factors, or Government planning policy (the National Planning Policy Framework) and Government planning guidance (the National Planning Practice Guidance).
- 1.3 The Development Control Committee will determine the application at its meeting having regard to the provisions of the Development Plan, representations we have received, and all other material considerations, following a verbal and visual summary of the application by the case

planner and, where applicable, after hearing any verbal representations made in accordance with our Policy for Public Speaking at Meetings.

- 1.4 Most applications are decided under powers delegated to the Head of Development Management. A small number of significant or more contentious applications are considered by our Development Control Committee as set out in our Scheme of Delegation.

2 Background and proposals

- 2.1 This application is being reported to Committee as my recommendation of refusal is contrary to the representations of support received from more than 5 households.
- 2.2 Low Wood Cottage is a detached dwelling located to the north-west of Nether Wasdale. The entire site is located within Shop and Gill Woods, designated as Ancient Semi-Natural Woodland (ASNW). Part of the woodland, including the area the subject of this application, is also subject to a Tree Preservation Order (TPO 482 W1) made in March 2025.
- 2.3 Planning permission for the construction of the dwelling was granted under application 7/2010/4087 for use as owners' accommodation for the Low Wood Hotel. Planning permission (7/2019/4063) was subsequently granted for the change of use to a local occupancy dwelling independent of the hotel. At the same time, the hotel operation ceased and permission was granted to convert Low Wood Hall to a single dwelling.
- 2.4 Condition 7 of the latest implemented permission removed domestic permitted development rights from the dwelling, including for the construction of any building, enclosure, domestic fuel oil container, pool or hardstanding within the curtilage of the dwellinghouse.
- 2.5 The car port, summerhouse and fishpond, the subject of this application, have all been constructed without planning permission, contrary to the above condition. The car port and summerhouse are located on land outside the curtilage of the dwellinghouse where a lawned garden area has also been created.
- 2.6 An application for retrospective planning permission for the change of use of the land to residential garden and retention of the summerhouse and car port was refused by the Development Control Committee in February 2025 (7/2024/4085). There is a live appeal against this decision which at the time of writing is yet to be determined. The reason for refusal was as follows:

As an irreplaceable habitat, Ancient and Semi-Natural Woodland (ASNW) enjoys strong protection from development which might diminish its character or condition through Policy 05 of the Lake District National Park Local Plan 2020-2035 and paragraph 193 of the National Planning Policy Framework.

The development that has taken place, and for which permission is sought, has had an adverse impact on the ASNW in which it is sited by virtue of the

loss of woodland; damage to woodland soils; encroachment on root systems and rooting environments; and noise and disturbance arising from the use for purposes ancillary to residential use. Granting planning permission retrospectively for the built development and the change of use to garden would consolidate and compound the harm that has already occurred. There are no public benefits or mitigating circumstances which would indicate a decision should be taken contrary to policy.

- 2.7 Two enforcement notices were subsequently served relating to the unauthorised material change of use of the land and operational development (E/2024/0096). These enforcement notices require the removal of the summerhouse and associated patio, along with the removal of the timber car port and associated concrete base. The notice also requires the discontinuation of the use of the land as garden. There are two live appeals against these enforcement notices which at the time of writing are yet to be determined.
- 2.8 This application is a resubmission following the refusal of 7/2024/4085. An ecological assessment and woodland management plan have now been submitted in support of the application, along with a unilateral undertaking to secure the implementation of the woodland management plan.

3 Representations

- 3.1 Wasdale Parish Council have highlighted that residents have expressed differing views of support and objection and requested that the application be considered by the Development Control Committee.
- 3.2 The Trees and Woodland Officer has advised that their comments are the same as in the previous case (7/2024/4085) as the situation has not changed. The standing advice is clear that we cannot put weight on the proposed compensation using a woodland management plan, so it cannot be taken into consideration as part of this application. In any case, sound woodland management should be occurring regardless of a planning application being submitted. The Forestry Commission provide very generous advice and guidance on woodland management, as well as offering grants to assist in this occurring.
- 3.3 The Woodland Trust have objected to the application on the following grounds:
- The Ecological Assessment concludes that the woodland may not be ancient. In this respect we would advise that woodland designated as ancient on Natural England's Ancient Woodland Inventory (AWI) should be treated as ancient woodland unless Natural England determines that the woodland is not ancient.
 - The Ecological Assessment comments that the woodland is in poor condition. Natural England and Forestry Commission's standing advice is clear that woodland condition should not be taken into account in determining applications impacting on ancient woodland.
 - We do not comment on the Woodland Management Plan as it is not relevant to the application. Whilst the Woodland Trust generally welcomes sensitive ancient woodland management, this should be

undertaken for the purposes of improving biodiversity, regardless of any planning application. As there is no wholly exceptional reason for the development in this location it is not possible to consider compensation.

- The entire site is within the area designated as ancient woodland on the AWI, although clearly parts of the woodland have been subject to a change in land use associated with the construction of the existing dwelling and surrounding hardstanding. From historic aerial imagery it appears that some of the area now developed has recently had tree cover. We would recommend that Natural England is consulted regarding the extent of any changes in land use over recent years and their opinion sought on whether the boundary of the ancient woodland, as shown on the AWI, needs to be amended to reflect those changes.
- As with the previous application, there are two site plans showing different red and blue boundaries. Depending on which is the relevant plan for this application, the summerhouse and carport are positioned either inside or outside of the site boundary. Additionally, the extent of the land for which a change of use is sought is unclear.
- Until such time as the applicant has clarified the extent of land for which a change of use is sought, and Natural England's view has been obtained on the antiquity of the woodland areas, it is not possible to understand and assess the proposals for a change of use from woodland to garden, and the impact that such a change may have on the ancient woodland. It is therefore not possible to determine compliance with NPPF para 193 (c).

3.4 We have received 17 representations of support which can be summarised as follows:

- Unauthorised development occurred prior to the applicant's ownership of the site.
- No tree felling has occurred.
- The proposed buildings are in keeping within the main house and are not visible in public views.
- The development does not impact neighbour amenity.
- A woodland management plan has been proposed to improve the condition of the woodland.
- Removal of astroturf was a positive change.

3.5 We have received 3 objections which can be summarised as follows:

- Question the deliverability of the woodland management plan now and in the future given the large areas of hardstanding and new built development.
- The woodland management plan would not restore areas where the change of use has occurred.
- The removal of vegetation would make the proposals and house more visible.
- Lack of confidence in the legal mechanisms to require the proposed replanting.
- The summerhouse has resulted in overlooking of the neighbouring dwelling.

- The car port is of a design and scale which does not reflect the character and appearance of the area.
- The site feels overdeveloped.
- Development within the woodland has destroyed habitats and had negative impacts on the visual amenity of the area.
- Retrospective approval of the unauthorised development circumvents the planning process and would be unacceptable.

4 Development plan policies and other relevant guidance

4.1 The relevant Development Plan comprises:

- The Lake District National Park Local Plan 2020-2035

4.2 The following Lake District National Park Local Plan policies are relevant to this application:

- Policy 01: National and international significance of the Lake District
- Policy 02: Spatial strategy
- Policy 04: Biodiversity and geodiversity
- Policy 05: Protecting the spectacular landscape
- Policy 06: Design and development

- Design Code Supplementary Planning Document

4.3 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It is a material consideration in the determination of planning applications.

4.4 There is no community plan in this area.

5 Main issues and assessment

5.1 The main issues in this assessment are:

- Principle
- Impact on the character and appearance of the area
- Impact on the amenity of neighbours
- Impact on the Ancient Semi Natural Woodland (ASNW)

Principle

5.2 The construction of ancillary outbuildings and structures within the garden of a dwellinghouse complies with Local Plan Policy 02 and is acceptable in principle. The fishpond is located within the dwelling's garden and is therefore acceptable in principle.

5.3 The summerhouse and car port are located on land outside of the dwelling's residential curtilage but are clearly used in association with the existing dwellinghouse. It was agreed under application 7/2024/4085 that the principle of retaining the car port and summerhouse and extension of the residential curtilage would not be contrary to Local Plan Policy 02.

- 5.4 There are however in principle considerations with respect to development within an ASNW which will be addressed in the relevant section below.

Impact on the character and appearance of the area

- 5.5 The proposals are not visible in public views from the highway to the south-west of the site and both the car port and summerhouse are of a design typical to domestic ancillary outbuildings. The fishpond is modest in size and is located close to the dwelling.
- 5.6 I am satisfied that the development has not resulted in an unacceptable visual impact on the public domain and therefore complies with Local Plan Policies 05 and 06, the Design Code SPD and the NPPF.

Impact on the amenity of neighbours

- 5.7 The closest neighbouring dwellings are Ragdhl House (located approximately 110 metres to the north-west) and Low Wood (the former hotel located approximately 65 metres to the south-east).
- 5.8 Due to the intervening woodland and the relief of the land, the structures are not visible from Low Wood Hall and therefore cause no harm to the amenity of this dwelling. Due to the separation distance from Ragdhl House, I am satisfied that the proposals have not resulted in harmful overlooking of this dwelling.
- 5.9 I am satisfied that the development would not have an unacceptable impact on amenity due to overlooking or overbearing effect.
- 5.10 The development is acceptable in terms of its impact on amenity and satisfies the requirements of Local Plan Policy 06, the Design Code SPD and the NPPF.

Impact on the Ancient Semi-Natural Woodland

- 5.11 The application site is located within Shop and Gill Woods, a designated Ancient Semi-Natural Woodland (ASNW). Ancient woodland is an area that has been wooded continuously since at least 1600 AD, taking hundreds of years to establish, and is defined as an irreplaceable habitat.
- 5.12 For this reason, there are strong national and local policies with respect to harm to ASNWs. National policy is extremely restrictive and prescriptive with paragraph 193 of the National Planning Policy Framework (NPPF) stating that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. An example of such a wholly exceptional reason is provided within footnote 70 as an infrastructure project where the public benefit would clearly outweigh the loss or deterioration of habitat.

- 5.13 The Government's national planning practice guidance on the natural environment sets out how planning authorities should assess the potential impact of development proposals on ancient woodland and ancient or veteran trees, stating that "LPAs need to consider both direct and indirect impacts on ancient woodland and ancient or veteran trees and the scope for avoiding or mitigating adverse impacts. Their existing condition is not something that ought to affect the LPA's considerations of such proposals (and it should be borne in mind that woodland condition can usually be improved with good management)."
- 5.14 It goes on to say that, "When assessing whether 'wholly exceptional reasons' exist that may justify a loss or deterioration of ancient woodland, ancient trees or veteran trees, 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."
- 5.15 The planning practice guidance points to further guidance set out in Forestry Commission and Natural England standing advice for ancient woodland, ancient trees and veteran trees. It is a material planning consideration in the determination of this application and reflects the position set out within the NPPF and planning practice guidance, stating that LPAs should refuse planning permission if development will result in the loss or deterioration of ancient woodland, ancient trees and veteran trees unless both of the following applies:
- There are wholly exceptional reasons
 - There's a suitable compensation strategy in place (this must not be a part of considerations of wholly exceptional reasons).
- 5.16 The standing advice states that ancient woodland, ancient trees and veteran trees are irreplaceable. Therefore, LPAs should not consider proposed compensation measures as part of their assessment of the merits of the development proposal.
- 5.17 The standing advice expands on the position within the planning practice guidance, stating that where a proposal involves the loss or deterioration of ancient woodland or ancient or veteran trees LPAs should not take account of the existing condition of the ancient woodland or ancient or veteran trees when assessing the merits of the development. Its existing condition is not a reason to give permission for development. A woodland or tree in poor condition can be improved with good management.
- 5.18 Policy 05 recognises woodlands as one of the Lake District's most valuable scenic and wildlife assets and states that development which involves or would lead to the clearance of or damage to semi-natural or amenity woodland or important trees will not normally be permitted.
- 5.19 An ecological assessment was submitted in support of this application which concludes that Low Wood is likely an old woodland, but that there is insufficient evidence to confirm it an Ancient Woodland. This conclusion is based on a lack of Ancient Woodland Indicator Species (AWIs) identified by

the ecologist on site and the presence of invasive species such as Rhododendron and Montbretia.

- 5.20 The assessment does not conclusively determine that the woodland is not an ASNW. Indeed, it is acknowledged within the assessment that the site has likely been continuously wooded since at least 1600 AD; the site therefore complies with the definition of ASNW set out within the standing advice. As a matter of fact, and as the Woodland Trust have pointed out, the site is designated as ASNW and in the absence of any conclusive evidence that this designation is incorrect, the LPA must assess and determine this application in accordance with national and local policy, the standing advice and planning practice guidance.
- 5.21 The assessment also queries the continuity of the woodland, however it should be noted that the standing advice is clear that 'wooded continuously' does not mean there's been continuous tree cover across the whole site. Not all trees in the woodland have to be old and, open ground, both temporary and permanent, is an important component of ancient woodlands.
- 5.22 The ecological assessment considers that the lack of natural regeneration and dominance of invasive species suggests that there has been habitat degradation, pre-dating the current owner's occupancy of the site, and which it considers to be uncommon in well-preserved Ancient Woodlands.
- 5.23 Ancient woodland which has been poorly managed is still however ancient woodland. This is why the standing advice and practice guidance state that the existing condition of the woodland should not be taken into consideration in the determination of planning applications, as woodland can be managed back into a favourable condition. The degradation of the woodland prior to the applicant's purchase of the land does not remove the ASNW designation or mean that the site is incapable of being managed back into a favourable condition. Indeed, the recommendations set out within the assessment and proposed woodland management plan demonstrate how, despite previous degradation, the woodland can be brought back into favourable condition through good management.
- 5.24 The Authority does not dispute that development within the application site, both through the unauthorised change of use and operational development, has resulted in degradation of the woodland, and that some of this harm occurred prior to the applicant's ownership of the site. However, to grant retrospective planning permission for the unauthorised development would consolidate this harm by removing the opportunity for this section of the woodland to recover.
- 5.25 It is also noted that the ecological assessment does not consider the direct or indirect impacts that the change of use of the site to residential garden has on the overall health of the ASNW. The use of this section of the ASNW as garden results in further encroachment of domestic activity into the woodland. This would result in noise and light pollution from the intensification of activity in this part of the woodland and would chip away at

the woodland edge, effects which are recognised as both direct and indirect impacts which result in the deterioration of ASNWs in the standing advice.

- 5.26 These concerns were shared by the Woodland Trust and the Trees and Woodland Officer in their consultation responses to the current application and application 7/2024/4085. It is also noted that the woodland management plan proposes a 5-10 metre buffer zone be created around the woodland edge, to be planted with native shrubs. That proposal is in conflict with the development for which permission is sought, which involves the change of use of land within this buffer zone to residential garden, undermining the intention and effectiveness of the proposed buffer zone and any benefits it may bring. As such, to grant retrospective planning permission for the change of use would not only consolidate the existing harm but would also be likely to compound it through ongoing domestic activity.
- 5.27 The proposals would therefore result in loss or deterioration of ASNW, an irreplaceable habitat. There are no wholly exceptional reasons for this harm, and therefore in accordance with the NPPF and standing advice, this application should be refused.
- 5.28 The applicant's agent argues that improvements to the ecology of the woodland could be achieved by approving this application and securing the proposed compensation measures and woodland management plan by condition or unilateral undertaking, which would result in public benefits.
- 5.29 The Authority does not dispute that the mitigation and recommendations set out within the ecological assessment and woodland management plan would constitute good woodland management to the benefit of the ASNW. However, the standing advice and planning practice guidance are clear that where loss or deterioration of ASNWs is identified without a wholly exceptional reason, the LPA cannot place weight on any proposed compensation measures in their assessment. In particular, compensation must not be a part of considerations of wholly exceptional reasons. Therefore, any public benefits which may be achieved through the proposed compensation measures cannot be considered to form a wholly exceptional reason for the identified harm to the ASNW. This is in acknowledgement of the fact that ASNWs are irreplaceable.

6 Conclusion

- 6.1 As an irreplaceable habitat, Ancient Semi-Natural Woodlands (ASNW) enjoy strong protection from development which might diminish its character or condition through Policy 05 of the Lake District National Park Local Plan 2020-2035 and paragraph 193 of the National Planning Policy Framework. Natural England and Forestry Commission's standing advice is a material consideration in the determination of any application which may impact an ASNW.
- 6.2 The development that has taken place, and for which planning permission is sought, has resulted in the loss of areas of ASNW and deterioration of the ASNW as a whole through both direct and indirect impacts by virtue of the

loss of woodland; damage to woodland soils; encroachment on root systems and rooting environments; and noise and disturbance arising from the use for purposes ancillary to residential use. Granting planning permission retrospectively for the built development and the change of use to garden would consolidate and compound the harm that has already occurred. There are no wholly exceptional reasons for the development and no public benefits or mitigating circumstances which would indicate a decision should be taken contrary to policy.

- 6.3 In accordance with the standing advice and planning practice guidance, weight cannot be placed on the proposed compensation measures in the assessment of the impacts of the development on the ASNW. This application has therefore failed to overcome the reason for the refusal of application 7/2024/4085 and remains contrary to Lake District National Park Local Plan 2020-2035 Policy 05 and the National Planning Policy Framework.

RECOMMENDATION: REFUSE

Conditions/Reasons

1 As an irreplaceable habitat, Ancient Semi-Natural Woodlands (ASNW) enjoy strong protection from development which might diminish its character or condition through Policy 05 of the Lake District National Park Local Plan 2020-2035 and paragraph 193 of the National Planning Policy Framework. Natural England and Forestry Commission's standing advice is a material consideration in the determination of any application which may impact an ASNW.

The development that has taken place, and for which planning permission is sought, has resulted in the loss of areas of ASNW and deterioration of the ASNW as a whole through both direct and indirect impacts by virtue of the loss of woodland; damage to woodland soils; encroachment on root systems and rooting environments; and noise and disturbance arising from the use for purposes ancillary to residential use. Granting planning permission retrospectively for the built development and the change of use to garden would consolidate and compound the harm that has already occurred. There are no wholly exceptional reasons for the development and no public benefits or mitigating circumstances which would indicate a decision should be taken contrary to policy.

In accordance with the standing advice and planning practice guidance, weight cannot be placed on the proposed compensation measures in the assessment of the impacts of the development on the ASNW. This application has therefore failed to overcome the reason for the refusal of application 7/2024/4085 and remains contrary to Lake District National Park Local Plan 2020-2035 Policy 05 and the National Planning Policy Framework.

NPPF decision notice requirements

Town and Country Planning (Development Management Procedure) (England) Order 2015 Article 35(2) statement.

The Local Planning Authority were unable to identify solutions to the problems arising in relation to dealing with the application.

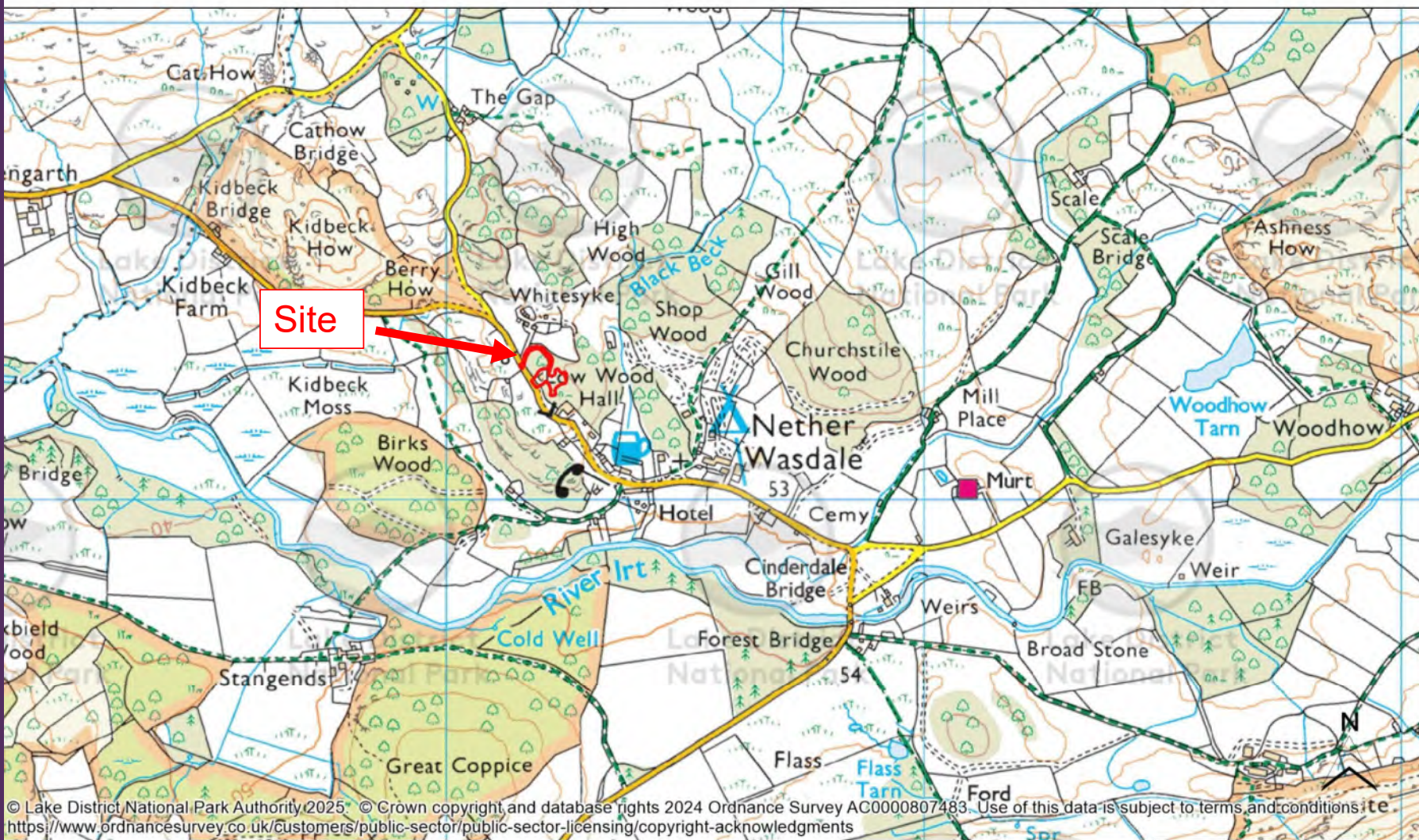
Background papers

Background papers are available for inspection on the planning application file unless otherwise specified on that file as confidential by reasons of financial/personal circumstances in accordance with the Local Government (Access to Information) Act 1985.

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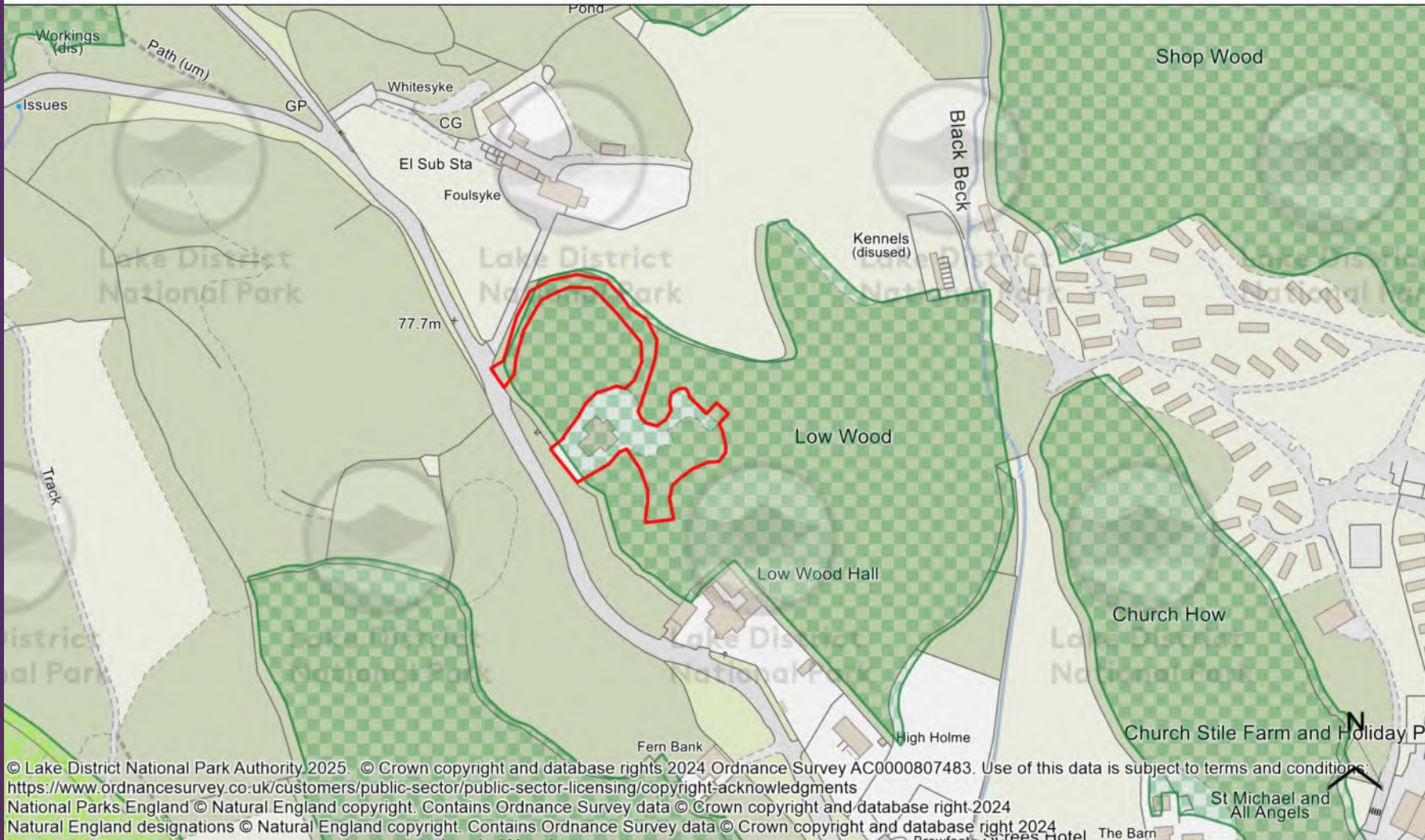
Low Wood Cottage, Wasdale, Seascale, CA20 1ET

Retention of existing fish pond, summerhouse and car port, and change of use of land to garden area



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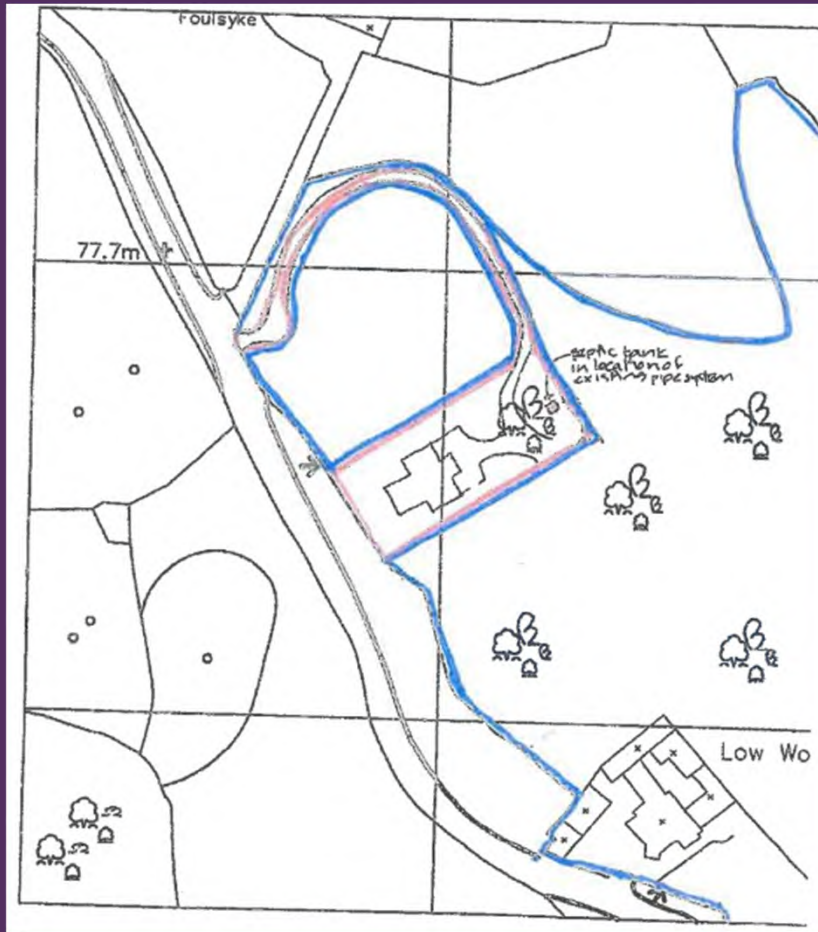
Site Photos





Existing & Proposed Site Plans

Existing



Proposed

