



**Lake District  
National Park**

**3**

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

Application number:	<b>7/2023/5255</b>
Application type:	Full Planning application
Applicant:	Mr Andrew Mikhail
Location:	Pearsall House, The Ferry Landing, Far Sawrey, LA22 0LP
Grid reference:	339039 495578
Proposal:	Conversion and change of use to hotel with associated landscaping
Report prepared by:	Catherine Campbell, Area Planner
Report agreed by:	Andrew Smith, Head of Development Management
Recommendation:	APPROVE with Conditions

**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 proposal**

- 2.1 This application is being reported to Committee as my recommendation is contrary to the views of Claife Parish Council and Windermere and Bowness Town Council, and due to the number of representations received. This application has also been before committee previously, in October 2023.

### Site

- 2.2 Pearsall House is located on a peninsula on the western shore of Windermere at the chain ferry landing, adjacent to Ferry House. It is currently vacant. It was last occupied by the Freshwater Biological Association. On maps the site has been known as the Pearsall Building, however the application form refers to the site as Pearsall House and I will refer to the site as this throughout.
- 2.3 The application site lies partly within an area with a high probability of flooding (flood zone 3), with the building located outside of this area. A Tree Preservation Order covers trees within the site along the lakeshore (TPO 459 A1). The application site is within the Station Scar Wood County Wildlife Site and adjacent to Windermere, which is also a County Wildlife Site.
- 2.4 Ferry House, the adjacent building, was converted to 13 apartments subject to a local occupancy condition through application 7/2004/5432. Prior to the implementation of this permission, Ferry House and Pearsall House were occupied by the Freshwater Biological Association with Pearsall House, a detached annexe, built in 1973.

### Proposal

- 2.5 This application seeks planning permission for:
  - The use of the building as a 15 room hotel (totalling 18 beds because three hotel rooms would contain two bedrooms) with a two bedroom staff accommodation unit;
  - Alterations to the building including the addition of a hipped roof to provide a second floor of accommodation; and
  - Landscaping of the site including alterations to the car park to provide 24 car parking spaces.

Application timeline

- 2.6 The Development Control Committee carried out a site inspection 12 July 2023.
- 2.7 This planning application was reported to the Development Control Committee in October 2023. Committee recommended that this application be delegated to the Head of Development Management to approve the application subject to:
- a satisfactory response from United Utilities in respect of foul water drainage and any condition(s) required to secure the suitable drainage scheme; and
  - appropriate conditions as recommended below.
- 2.8 I carried out a site visit in January 2024 and saw that unauthorised work had taken place on the site, including earthworks and works to trees. The Authority then served a Stop Notice and an Enforcement Notice.
- 2.9 Due to the changes to the site conditions, the Development Control Committee carried out a further site inspection on 10 April 2024.
- 2.10 This application is being reported back to Committee given revisions to the drainage scheme and as unauthorised development has occurred on site (a material consideration) since this application was last before committee. There have been extended and protracted back and forth submissions about drainage between the applicant, United Utilities, the Environment Agency and third parties since the application was last before Committee.
- 2.11 This application follows a previously withdrawn application (7/2022/5624) for the conversion and extension of a water testing lab to provide 14 new leisure residential units with associated pool; erection of a new single dwelling; creation of a new two jetty marina; associated landscaping works (7/2022/5624). That application was withdrawn following concerns raised on a number of grounds, including principle and impact on the character and appearance of the area.

### **3 Representations**

Below is a summary of representations received. Full responses from consultees are available to view on our website.

- 3.1 Claife Parish Council: Object
- Highway safety
  - Light pollution
  - Overdevelopment
  - Overlooking/loss of privacy/overshadowing
  - Parking
  - Requirements of Policy 08 have not been met - Water supply/wastewater management
  - There are no reliable assessments of foul water flow, no fully approved plan for how sewerage will be dealt with, and no fixed deadline within

which a new system can be designed, constructed, approved by the Environment Agency and made fully operational.

- Inadequate supply of fresh water. How would additional demand on the fresh water supply be met.
- How the foul water generated would be adequately managed to prevent pollution.
- Calculations provided in respect of flows are inaccurate. The foul water flow assumptions made by R G Parkins are unreliable and cannot be used to justify their flow predictions. Foul water flow assumptions have been based on historic employee numbers rather than on employee occupancy of the site including all neighbouring buildings.
- How would large increases in flow rates be accommodated.
- The existing foul water storage currently has to be emptied by tanker several times a week and this will increase substantially with increased flows requiring more frequent tankers. There is no indication how this would be managed during poor weather conditions.

### 3.2 Windermere Town Council: Recommend refusal

- The western shore of Windermere Lake has retained its quiet, unspoiled ambience which would be harmed irrevocably by the introduction of an hotel on this lakeside site.
- The proximity of the proposed hotel to the existing Ferry House would significantly affect the privacy and well-being of its permanent residents.
- The issue of parking and problems with traffic queueing for the ferry mean access to the property will be difficult and make it harder for the many pedestrians using the road.
- Access, given the narrow roads and the unreliability of the ferry will impact on pedestrians and other road users.
- There is a lack of infrastructure, particularly mains water and sewerage which would impact on lake water quality and thus on nature and biodiversity in the area.
- Until the enhancements to the foul water drainage systems are quantified and detailed, continue to recommend refusal of the current proposal to connect to the public sewer until the long terms solution enhancements are proved by UU and agreed as acceptable.
- The application does not fully address the issues raised by the previous withdrawn application for holiday let accommodation.
- We note and commend to LDNPA the representations of residents of Ferry House.

### 3.3 United Utilities – Multiple responses received and latest position summarised:

- No objection in accordance with UU's statutory obligations.
- Drainage strategy confirms only foul flows will connect to the UU public sewer system
- UU intend to bring forward enhancements to the wastewater infrastructure to provide a long-term solution.
- Drainage from the application site, which formally operated as a laboratory for the Freshwater Biological Society, currently connects to

the public combined sewer system which discharges to a wastewater tank at Ferry House and is emptied by tankers approximately once or twice per week and taken away for treatment at Ambleside Wastewater Treatment Works. United Utilities initially responded to this planning application in September 2023 to request a detailed foul and surface water drainage plan, an estimate of the proposed foul flows and details of any existing drainage arrangements. The applicant initially proposed a private wastewater treatment plant, which was a matter for the Environment Agency to consider rather than United Utilities. As a private treatment plant was not acceptable to the Environment Agency, the applicant proposed a foul only connection to the public sewer, with surface water discharging as per existing arrangements to Lake Windermere. In accordance with our statutory obligations, United Utilities confirmed no objection in principle to the proposed drainage arrangements in March 2024.

- It is important to highlight that under s106 of the Water Industry Act 1991, the owner or occupier of any premises is entitled to have his drains or sewer communicate with the public sewer and to discharge foul water and surface water from his premises to that public sewer. On this basis a developer may construct a drainage network and connect it to the public sewer.
- Alongside our interaction in the planning process, and to improve the resilience of our current operations, United Utilities has undertaken works to the existing tank at Ferry House. This has included, increasing the capacity of the tank and undertaking work to prevent groundwater ingress. We recognise the importance of ensuring that the capacity of the tank is not exceeded and therefore we have also incorporated telemetry to ensure that United Utilities receives advanced warning of any need to empty the tank. This will assist United Utilities to closely monitor the operation of the wastewater tank. When the hotel is fully developed and is connected, it is likely that, without further investment in a suitable alternative, the tankering frequency would need to be increased, potentially to once per day when the hotel is fully occupied.
- United Utilities is proposing an enhancement to the wastewater infrastructure to facilitate the development, but it will take time to deliver the enhancement scheme and secure the necessary permissions and consents to implement the upgrades.

3.4 Environment Agency – Multiple responses received and latest position summarised:

- No objection in principle to the proposed development.
- Any approval includes a Grampian condition that:

The property shall not be operated and occupied for the use approved by this permission prior to

- a) 1 March 2030 or
- b) the construction, completion, and

Operational start of

- i) permanent improvement works to Ferry House Wastewater Treatment Works or

ii) permanent improvement works at another suitable location, whichever is sooner.

Details of any permanent improvement works that would allow operation and occupation of the property for the use approved by this permission before 1 March 2030 shall be submitted to and approved in writing by the Local Planning Authority..

Without such condition the Environment Agency object.

- Ferry House WwTW does not currently have a direct discharge to Windemere, and all foul sewage is currently retained in holding tanks. Effluent is transported off-site by lorry when the holding tanks reach capacity. United Utilities have completed works to increase storage capacity at Ferry House WwTW in response to reports of surcharging manholes at the site. This work was completed prior to an Environment Agency inspection in January 2023. While no further reports of surcharging have been received, there are concerns that any additional flows to Ferry House WwTW will increase the risk of pollution to Windemere without further improvements to the Ferry House WwTW.
- Due to the proximity of Ferry House WwTW to Windemere, any increase in flow to the works could result in further surcharges to the lake as the tanks will take less time to reach their capacity. Any surcharges would conflict with the objectives of the North-West River Basin Management Plan as the discharge of untreated effluent adjacent to Windemere could detrimentally impact on the recovery of the Windemere (N Basin) waterbody by contributing to the deterioration of water quality elements to a lower status class.
- United Utilities have proposed a program for developing long-term solutions to improve water quality in Windemere by 2030, as set out in Appendix B of the PR24 Draft Determination: Enhancement Case for Windemere (August 2024). This programme includes works at Ferry House WwTW. While plans to improve Ferry House WwTW by 2030 are developed, there needs to be confidence that any increase in the volume of effluent discharging to it before then can be accommodated.
- It is understood that the capacity of the holding tanks at Ferry House WwTW cannot be increased any further. However, in their planning response dated 10 October 2024, United Utilities indicated that they had identified temporary measures that could be taken to increase capacity by the end of December 2026. This provided confidence that the connection of foul effluent from the proposed development would not increase the risk of pollution to Windemere if it was delayed until January 2027, following completion of the temporary improvement works.
- The drainage strategy submitted on 21 March proposes to connect to the public sewer, but any occupation of the proposed development would have been prevented using a Grampian planning condition. This approach would have allowed United Utilities to implement the temporary measures that would increase network capacity.
- Following discussions between the Environment Agency and United Utilities, it has been established that the temporary measures United Utilities intended to implement to secure the additional network

capacity by December 2026 would not be acceptable. As such, there would have been a lack of certainty that any works to increase the capacity of the public sewer network by December 2026 are achievable.

- If the development was occupied in January 2027 as proposed through the original Grampian condition, there would have been a significant risk of unacceptable harm to water quality from the impact of the additional foul effluent from the development to Ferry House WwTW and there is a limit to what the Environment Agency could do to mitigate the risk through its regulatory role. United Utilities could be encouraged to empty the existing holding tanks more frequently to avoid the risk of surcharging, but this is not an activity that is controlled through the Environmental Permit.
- Given the above, the applicant has now confirmed in the more recent e-mail, dated 13 May 2025, that they agree to an updated Grampian condition which will prevent operation of the hotel until 1 March 2030, which aligns with the United Utilities improvement programme.
- While the nature of those improvement works is still in development, as the Environment Agency have no evidence to demonstrate that a solution cannot be identified and agreed within this timescale, there is no longer any reason to say the development cannot proceed provided it is not used as a hotel before 1 March 2030 or the date on which permanent improvements at Ferry House WwTW or at another location, as agreed with the Environment Agency, become operational (including having a valid permit), whichever is sooner.
- The Windermere (N Basin) waterbody is designated as having a Moderate status in the North West River Basin Management Plan Cycle 3. Under the Water Environment (Water Framework Directive) Regulations 2017, there is a requirement for water bodies not to deteriorate and to aim to achieve good status by 2027. Under regulation 33 of these regulations, public bodies must have regard to these objectives when undertaking their duties. In the absence of the updated Grampian condition, the proposed development could potentially increase the risk of deterioration by increasing total Phosphorus discharges via intermittent sewage disposal if the storage capacity at Ferry House WwTW is exceeded.
- If this application is approved and the development is occupied in advance of any improvement works to Ferry House WwTW, this will be a planning enforcement matter for the local planning authority. Should any occupation happen before improvements to the United Utilities network take place, then the Environment Agency would take any appropriate compliance / enforcement action in relation to the permit for Ferry House WwTW or other relevant legislation.
- Flood risk – Satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.
- Under the Environmental Permitting (England and Wales) Regulations 2016 Flood Risk Activity Permit is likely to be required for any works in, over, under or within 8m of the banks of Lake Windermere.
- Biodiversity Net Gain – applicants are encouraged to include biodiversity net gain within their proposals.

- 3.5 Local Highway Authority: No objection
- The proposed hotel will generate significantly less traffic than the existing approved use of the site can generate as office space. The proposal will reduce the traffic impact on the local transport network.
  - Sufficient car parking is proposed.
  - Secure and covered long stay cycle parking should be provided.
  - The proposal to stop the through route between the site and Ferry House would be a slightly adverse impact on highway safety because it would create the need for turning and reversing movements on both sites. Ideally, the through route should be left available.
  - The LDNPA Infrastructure Delivery Plan identifies cycle and walking improvements to be delivered between Hawkshead and Ferry House. The improvements identified in the plan would benefit the users of the hotel. Delivery of the improvements are the responsibility of the LDNPA.
- 3.6 Lead Local Flood Authority: No objection
- There is not thought to be any risk from surface water flooding to the proposal.
  - Welcome the replacement of impermeable tarmac by grass grid parking bays.
- 3.7 Westmorland and Furness Council Environmental Protection: No objection in principle but the following conditions are recommended:
- Contaminated land
  - Construction hours
  - Construction method statement
  - Operational noise
  - Light
  - Non-mains drainage
  - Water supply
- 3.8 Crime Prevention Officer: No observations or comments
- 3.9 Lake District National Park Senior Rights of Way Officer: This section of road is quite dangerous for pedestrians going to the ferry. I would like to see this as an opportunity to have some planning gain – either a pavement or footpath creation or something to help the situation.
- 3.10 Lake District National Park Lead Strategy Adviser Recreation and Sustainable Transport: This will be where the West Windermere Way goes when it eventually reaches Ferry House so it would be good to have something in place.
- 3.11 Friends of the Lake District (Campaign to Protect Rural England): Object
- Welcome the reuse of the building in principle.
  - No provision for guest dining facilities;
  - The plans give the impression of holiday apartments rather than a hotel.
  - Does not comply with Policy 18

- It is unclear which use-type is proposed, it is not possible to properly assess the proposal against policy 18 and to do so, more information would be required.
- Impact on traffic as guests would have to travel away for every meal.
- Submission includes aspects of the withdrawn proposal in the design and access statements.
- No details of lighting and impact on light pollution cannot be assessed.
- Contrary to Policy 02.
- Tourism use of this site would have a very different impact in relation to character when compared with permanent everyday residential use or an employment use.
- The current residential apartments at Ferry House, along with the recent former use of Pearsall House as offices both demonstrate clearly that these uses have not resulted in the impacts that would be associated with a more intensive, tourism use of the building, shore and lake as is evidenced in the busier and more developed locations elsewhere on Windermere.
- The Landscape Character Assessment is clear that some of the main sensitivities of this area relate to tranquillity but also to water quality and lake edges, and accordingly, it identifies maintaining the strong sense of tranquillity and restoring water quality, mires and lake edges as specific guidelines for the management of this area, along with maintaining open views across the Lake and ensuring boathouses and jetties reflect local vernacular or Victorian styles and scale. The Claife Viewing Station is noted for its cultural connections. Also highlighted is the expansion of leisure development in the quieter areas of the Lake.
- This proposal will not protect the characteristic views, nor will it constitute sympathetic management of property adjacent the lakeshore.
- On the basis of all of the above, it is our view that the proposal conflicts with policies 01, 05 and 24.
- The proposal will impact negatively on the significance of Claife Viewing Station and its setting, not least by affecting views to and from it as set out above. The viewing station is a listed structure in its own right and is identified in the WHS nomination dossier as part of a wider designed landscape running along the western shore and stretching across to Belle Isle.
- The proposals conflict with policy 01 and 07.
- There is no evidence of how the proposal will meet the requirement for 10% biodiversity net gain.
- There appears to be little or no reference in the application to water pollution issues despite the recent high profile of this in relation to Windermere.

3.12 At the time of writing 1673 objections have been received. 16 of these objections were received prior to the application being reported to the Development Control Committee in October 2023. Approximately 1590 of the objections follow similar templates. The following is a summary of the representations received.

#### Principle and proposed use

- It is not correct that the building is not suitable for office, retail or employment.
- No consideration has been made to the use of the building for local housing.
- No dining facility meaning that guests must travel to eat. Very few establishments serving food in the area.
- Guests cannot rely on going to Bowness throughout the year as at times of high winds or high lake level the car ferry cannot operate. In the winter period the last ferry crossing is 9pm.
- Self-catering accommodation rather than a hotel.
- The proposal is lacking in detail and clarity on the precise use of the hotel.
- The bar would be attractive to non-residents.
- The plans imply that the guest rooms would have integrated catering facilities.
- Alternative uses for the building have not been explored.
- The site is too small to accommodate the proposed use. Inadequate hotel external garden space would result in hotel guests damaging the shore line, disturbing the tranquillity, and destroying the lakeshore environment, requiring night-time lighting, and would also cause trespassing onto Ferry House gardens and lakeshore.
- Prioritising tourism to the point of collapse is shortsighted and dangerous.
- Increasing Tourism to the Lake District is obviously unsustainable unless ALL public services are updated and improved at the same time.
- The proposal does not comply with Policy 08.
- Unauthorised construction was started on the hotel roof and the car park. Trees have been damaged and the shoreline cleared of critically important habitat including habitat for otters. The proposed remediation will take tens of years to return some of the area to its natural state. Missing remediation will leave the shoreline and the area separating the building from the shoreline permanently damaged

#### Drainage and sewage disposal

- LDNPA is likely to place itself in a position, if it approves the application now, where it finds at a later date that there will be either no upgraded foul treatment facilities in the foreseeable future or inadequate facilities that place LDNPA in breach many of its own policies, statutory obligations and the NPPF etc.
- The suggested LDNP recommendation for approval with the above amended condition is premature as LDNP and UU do not know if:
  - any small wastewater treatment, located on Windermere Lake, will reliably deliver the recently upgraded phosphorous specification for discharges to the Lake
  - there is sufficient space, preferably below ground and far enough away from the FBA water bore hole, for the wastewater treatment and associated increased storage for the treatment of 12m<sup>3</sup>/day of wastewater from the full capacity of the Hotel and

- 5m<sup>3</sup>/day from Ferry House, the FBA cottages and the public toilets. UU only own a narrow strip of land
- the EA will permit an outfall from anywhere on the peninsular - west side outfall into the stagnant and polluted waters of Mitchells Wyke -east side pipeline into the centre of Lake which will be controversial
  - UU can convert the Ferry House treatment plant into a pumping station to a remote wastewater treatment and the associated increased storage in the event of no outfall being available.
- UU make clear the uncertainty as to the nature, scope and timing of any enhancements and the many unresolved dependencies, not least permission or otherwise for a waste discharge from the EA. In the absence of such response, the Authority can't be deemed to have considered its impact and acceptability against its development plan when making its planning decision.
  - UU admits that being able to deliver an acceptable waste treatment solution depends on securing additional land, securing planning permission and most importantly securing EA approval of a permit for the existing or new discharge outfall to Windermere. UU is unable to define timelines due to these uncertainties. It is quite possible, given the government and public focus on preventing any new discharge to Windermere and lack of suitable building site, that UU will never be able to deliver an acceptable solution other than through long term major construction of a pumping station and associated public sewer pipeline designed to transport waste to an industrial sized facility well away from the Windermere shore. This could take a decade and a large budget to achieve.
  - UU's letter makes clear that they will not be in a position to provide the information necessary for LDNPA to make a planning decision until the EA confirm permission to discharge, or otherwise, and UU are then able to determine the nature of drainage solution and the timing of that work. UU state that, "This information can then be used by the local planning authority in the determination of this application for planning permission."
  - UU have a statutory obligation not to object to receiving sewage flows to their system. The planning officer recognised this legal obligation in the report to the October 23 DCC and the Authority correctly did not interpret that in itself to be a reason to approve the application. It would be irrational (in a legal sense) for the Authority to suddenly, 20 months later, seek to interpret the same statutory obligation as a satisfactory response or to take it, out of context, as no objection, especially given the content of the rest of UU's letter.
  - There is considerable uncertainty as to what solution could be implemented and even whether a solution could be implemented at the site. The EA's response means there is now even greater uncertainty as to any drainage solution; they have specifically ruled out the use of UU's existing tank, UU's temporary solution to secure additional capacity by December 26, the use of a package treatment plant and have not given approval for UU to build a WwTW discharging into Windermere at Mitchell Wyke Bay.

- Approval by LDNPA on the basis of a new UU WwTW on the banks of Windermere, starting a new discharge of sewage into the lake (where there is currently no discharge), would be very controversial.
- There has been no sewage discharge at this location for over 20 years, as the outlet from the original infrastructure was blocked and the site repurposed into a cesspit. Any operational changes that seek to reintroduce discharge in this area would result in a 100% increase in sewage output.
- Save Windermere argues that without first implementing a sustainable solution for the sewage that will be generated in development, granting consent for this development will compromise the National Park's statutory obligation to preserve and enhance the natural beauty of the Lake District. This is due to the heightened risk that the development will lead to further discharges of sewage into England's largest freshwater lake.
- Given the evidence presented regarding the inadequacy of the infrastructure and sewage treatment works' capacity in the proposed location, we believe the Lake District National Park Authority should impose appropriate planning restrictions on the commencement of development, contingent on the prior completion of the necessary upgrades by the water company.
- Misleading wastewater flows.
- Freshwater Biological Association objects to the proposed foul water management from the hotel that could impact the ecology Windermere and our operations. Due to well documented issues with nutrient enrichment there should be a presumption that no further loadings of wastewater should be discharged into this water body. Mitchell Wyke Bay suffers from periodic algal blooms and FBA is concerned that the capacity of the storage tanks is not fit for purpose to meet the wastewater management requirements of this new development. Nutrients in surging foul water flows could exacerbate the impact and duration of these events that pose a risk to both human and wildlife.
- The developer and UU are not proposing any treatment or adequate wastewater storage on the peninsular which can handle the average 14-17m<sup>3</sup>/day (existing 5m<sup>3</sup>/day plus 9-12m<sup>3</sup>/day) from the Hotel. This means that 5110-6205te/year would be transported in daily 20te loads along narrow Lake District lanes to the Ambleside WWTP which discharged raw sewage into the River Rothay and Windermere 113 times over a recent 13 month period.
- UU has reported the need to empty their 22m<sup>3</sup> wastewater tank once or twice a day during periods of heavy rainfall. The peak wastewater flows are therefore in excess of the 18m<sup>3</sup> capacity of one tanker. If the Hotel wastewater flows of 9-12m<sup>3</sup> are added the peak wastewater flows are 27-30m<sup>3</sup>/day.
- The UU Ferry House wastewater treatment facility has only 22m<sup>3</sup> of wastewater storage capacity and the latest developer's wastewater strategy is only suggesting an additional 9m<sup>3</sup> of wastewater storage. The overall effective working capacity will be around 20m<sup>3</sup>, a fraction of the 113m<sup>3</sup> (18m<sup>3</sup> for two users plus another 6.8m<sup>3</sup> per each extra user) recommended by EA and less than a day's capacity.
- Spillages of raw sewage into Windermere were commonplace in 2023 when there was several days wastewater storage. The 14-17m<sup>3</sup>/day

average flows and 27-30m<sup>3</sup>/day peak flows with less than a day storage and a two-tank system will guarantee catastrophic wastewater spillages into Windermere whenever there is significant rainfall or tanker collections fail due to weather, driver or vehicle failure.

- Do not believe it is feasible to use the existing water supply and wastewater infrastructure.
- This West Shore peninsular has no mains wastewater/sewage service or mains piped water and relies entirely on a single wastewater/sewage tank opposite Pearsall House at Mitchell Wyke Bay, and a water bore hole/well, both of which this proposal intends to make use of. Use of this existing water, wastewater and sewage infrastructure is of serious concern. During periods of rainfall, surcharging of the wastewater/sewage tank occurs.
- The wastewater tank which currently serves The Ferry House, the FBA apartments, the public toilets by the ferry and Pearsall House is, in our opinion, unlikely to be able to adequately cope with the additional volume resulting from the significant increase emanating from a 15 bedroom hotel. These will most likely have a high level of occupancy and will generate substantial amounts of wastewater. The wastewater tank is owned by United Utilities. Existing waste tank has overflowed when there has been significant rain fall. A heavy additional demand on the waste is likely to cause significant problems.
- Blue green algae is frequently seen in the lake and any additional sewage will only exacerbate the problem.
- Not compliant with Policy 08. Insufficient infrastructure to support a hotel due primarily to a total lack of main line water and main line sewer services.
- LDNP should accept responsibility to reevaluate the subject proposal on the basis of non-compliance with Policy 08 and not relegate that decision responsibility to a compromised utility company. The only sensible options, driven by Policy 08, are to delay the hotel until the UU cess pit is converted to a pumping station in the long term, or simply reject the proposal.
- The necessary service infrastructure does not exist on the peninsula to serve the development (i.e. it doesn't satisfy Local Plan Policy 08) and it has been clearly demonstrated that it would have an adverse impact on lake water quality (in contravention of Local Plan Policy 24).
- Ferry House cess pit should be changed into a pumping station.
- There are swathes of Toxic Blue-Green Algae around Mitchell Wyke.
- Concerns on water supply if the hotel had its own package treatment plant.
- The latest drainage proposal is to discharge foul waste from the hotel into the United Utilities (UU) Ferry House wastewater tank. This is an old cesspool tank with limited/inadequate capacity (max 22m<sup>3</sup> taking into account UU recently increasing storage), which will require a road tanker to visit the site and empty its contents on a daily basis to avoid the risk of the tank overflowing into Windermere (conservative estimate of volumes entering the tank 11-14m<sup>3</sup> from Pearsall, Ferry House and FBA cottages, plus surface water - rainwater will further increase volumes, even with the proposed Pearsall strategy). In the likely event that a tanker would be unable to make the daily journey down the narrow lanes to its site, in all weather conditions, up to 14 tonnes of

raw sewage will overflow into Mitchell Wyke Bay every day until collection resumes.

- Any solution that relies on daily, or even every other day, collection therefore presents the risk of the tank overflowing raw sewage into the lake and is therefore unsustainable.
- The risk of an event and the scale of environmental damage is exacerbated by the significant increase in foul water flows compared with the previous use of the Pearsall House by FBA.
- Concern regarding contamination to private water supply.
- The FBA are concerned that the proposal for wastewater discharge would detrimentally affect the water quality of our intake resulting in an unacceptable risk to the vulnerable species the FBA breed at their facility, and their ability to carry out the vital species conservation work the FBA is known for.
- LDNP should question a solution that depends on overloading an inadequate and unfit-for purpose old concrete tank which has historically had a throughput of around 3 m<sup>3</sup>/day waste and which regularly requires evacuation by a road tanker navigating the narrow lanes on a daily basis. The alternative is provision of a modern tailor designed WWTP that efficiently treats (not just a holding tank) a design rate of around 14 m<sup>3</sup>/day wastewater to rigorous quality standards with minimal likelihood of spills to Windermere. This facility would be located on the same site currently hosting the existing UU tank with the latter being excavated and removed. In summary, LDNP is urged to refuse final approval of this project unless a fit for purpose WWTP is provided.
- The quoted Pearsall flows are lower than the British Water Flows and Loads(4) code of Practice which specifies 44x300litres/day/person which is 13m<sup>3</sup>/day just for the rooms alone and compares with 44x90 litres/day/person which is only 4m<sup>3</sup>/day for continued laboratory and office use. This is the effect of the change of use of the Pearsall Building. UU have removed the internals of the redundant wastewater treatment plant and increased the storage capacity to 22m<sup>3</sup> storage. This represents a little more than a day's capacity and a daily journey for a 15te tanker to Ambleside – a costly ongoing, unreliable and arguably unsustainable commitment going forward There is no WWTP plant proposed as part of the UU Ferry House facilities as currently UU and EA have taken a view that the EA will not permit an outfall into Mitchells Wyke – a picturesque inlet on the west side of Windermere.
- Freshwater Biological Association advise that there are inaccuracies in the drainage strategy in the previous foul flows for the office which are stated to be 70 full time members of staff. In the FBA annual report for 1982 it stated that there were approximately 70 staff members, however cannot confirm how many people were on the site and the assumption cannot be made that there were always 70 people occupying the site during working hours. Shortly before vacating the Pearsall building in 2021 the staff at the FBA totalled 10, a mixture of part-time and full-time staff based at the office and hybrid working. The use of foul water system is significantly less than what has been presented in the drainage strategy.
- Although United Utilities (UU) claims to have increased storage capacity recently, it remains unclear whether the site can handle the

added load into the foul network, along with increased rainfall resulting from changing climatic conditions, which will put additional strain on the combined system.

- According to a 2013 report by United Utilities (UU), tankering sewage to Ambleside WwTW was deemed "not a long-term solution." Therefore, any additional loading that necessitates tankering to Ambleside does not offer long-term ecological protection for Lake Windermere. Comments regarding accessibility to the peninsula, especially in adverse weather conditions, imply that increased tankering not only fails to provide a solution but also raises the risk of illegal spills entering Windermere from unpermitted discharges when tankers cannot access the facilities particularly due to the limited capacity at the site. Furthermore, Ambleside WwTW has been demonstrated to already spill illegally. Ambleside WWTW was included in a recent analysis by the group, Windrush Against Sewage Pollution (WASP).
- The contamination of Windermere is a national scandal and we can't risk any development that further exacerbates this situation.
- Save Windermere believes that Ferry House WwTW should be turned into a pumping station with all loads transferred to a larger WwTW in the catchment as a sustainable, complete solution to this issue.
- Save Windermere contends that without the prior completion of a sustainable solution to using Ferry House WwTW as a cesspit, granting consent for this development will undermine the National Park's statutory obligation to preserve and enhance the natural beauty of the Lake District. This is due to the increased risk this development will further the spilling of untreated and poorly treated sewage into the Windermere catchment.
- Both UU and EA should be challenged.
- UU have advised that it is considering a WwTP on the banks of Windermere to replace the redundant cess pit operation. There is a serious fault in its strategy as it is assuming the resultant treated effluent could be discharged under the terms of an existing 1995 discharge permit. Any UU proposal for a WwTP with local discharge would likely meet EA resistance based on effluent quality and discharge location not meeting modern standards.
- The National Park cannot rely on United Utilities agreement to be the ultimate arbiter of environmental acceptability.
- The proposed network capacity will not be sufficient to prevent an increased risk of sewage directly escaping into Windermere. This concern is reaffirmed by the Lake District National Park Authority's statutory advisor, the Environment Agency (EA), which has specified '18m<sup>3</sup> for two users (plus another 6.8m<sup>3</sup> per each extra user),' equating to 113m<sup>3</sup> of storage required for the development. This requirement is not being met in the proposals, nor, we suggest, have previous interventions by UU on the site ensured that the current network has the necessary capacity.
- Legal advice indicates that while the Lake District National Park Authority may consider the statutory water company's (United Utilities) advice on foul system and sewage treatment works capacity, they are not required to do so in the face of contrary evidence. This belief is based on agreed legal principles set out in case law. Therefore, the

evidence presented must be considered as a material factor in the decision-making process. It is worth noting that Professor Hammond's analysis of illegality was recently cited when OFWAT announced its proposed fines for the water industry. OFWAT, the EA, and the Environmental Audit Committee (EAC) recognise Professor Hammond's analysis as credible and deserving of serious consideration.

- Failure to impose appropriate planning restrictions on the commencement of development, contingent on the prior completion of the necessary upgrades by the water company risks exacerbating existing sewage pollution issues and poses potential public health risks, as highlighted in the Royal Academy of Engineering's report[1] on the need for upgrades in wastewater infrastructure to protect public health.

#### Flood risk

- Flood risk. Road is prone to annual flooding with residents of Ferry House being cut off for 5 days in 2015 and 2009.

#### Residential amenity

- Impact on amenity of the occupiers of Ferry House from use and extensions – overlooking, overshadowing, loss of privacy, noise and light pollution.
- Light pollution and impact on residents of Ferry House due to outside lighting
- Increased fire risk to Ferry House as people on holiday would leave appliances on.
- Hedging and fencing should be proposed to prevent trespassing onto Ferry House.
- Mikhail Leisure intends to submit a supplementary planning application to extend the reception area on the eastern elevation and extend the bar/lounge on the southern elevation. Whilst we recognise that any such application will be subject to planning review, it is clear that his medium to long term intention is to obtain a public license for his hotel. Your draft planning approval clearly states that the bar/lounge is for the use of residents only (condition 3). What, if any, reassurance can you provide that this will be the case? Is this within the control of the LDNP DCC or should we rely upon the alcohol licensing authorities to control this aspect of the hotel use?
- The developer appears to dismiss the DCC condition of a residents-only bar, by indicating an extended 2-story bar area catering to 23 rooms plus 45 drinkers for a total of 93 users. Thus the proposal has the appearance of a “pub with rooms” rather than a boutique hotel. To enable such a trade volume the developer would presumably be applying for a licence to sell alcohol to the public.
- A freshwater well, owned and operated by Ferry House Management Co. Ltd (FHMC) currently supplies fresh water to Pearsall House. The intensification of the site resulting from the proposed development will result in excessive use and it is unlikely that the current supply arrangement will be sustainable.
- Ferry House are responsible for the well which takes water from the lake, filters it and pumps it to Ferry House for Ferry House treatment

and use and also pumps it to the Pearsall building for treatment and FBA cottage and future Hotel use. Ferry House do not yet know whether the well will provide a 10 times increase in supply to the Hotel. Furthermore the supply will fail from time to time due to well, pump and power failure. Ferry House have advised MHL to install their own generator backed bore hole supply and several days water storage. MHL would like to delay installing their own bore hole until the Hotel is operating which puts the Hotel, Ferry House and the FBA cottages at risk of supply failures. The Ferry House well water alone is simply not a secure enough supply for a Hotel. A W&F Regulation 6 Risk Assessment has recommended that the Hotel requires 'significant volumes of water storage' and 'an additional source' of water

#### Scale, appearance and design

- Overdevelopment
- The scale of the proposed development does not satisfy Policy 06.
- Impact the tranquil nature of the western shore of Windermere.

#### Highways, access and parking

- Car parking. The proposal does not have adequate car parking.
- There is barely adequate provision for parking. 16 rooms requires one to one and half spaces per room. This means that 16-24 spaces are required for residents alone. There are two resident staff, six non-resident staff and the early drainage strategy displayed 45 resident visitors to the residents' bar. There are only 22 spaces so parking on the road obstructing the Ferry access is inevitable at peak times.
- Increase traffic congestion. During the summer months and weekends, the traffic for the car ferry regularly runs to several hundred metres, which makes access to the building challenging and sometimes dangerous.
- Construction of the extension with large deliveries would pose a hazard.
- Insufficient car parking is proposed and car parking would overflow onto the roadway.
- No reference to the ferry service that Windermere Lake Cruises Limited operates from Ferry Landing to Bowness Bay. The landing used for this service is owned by the applicant and we operate to/from it under an informal licence agreement that can be cancelled at any time. Given objections about traffic make sense to secure a more permanent right for a passenger transport service to use that facility, particularly given the reliability issues of the ferry Mallard. If the opportunity to secure a more permanent right for passenger transport vessels to use Ferry Landing, and the applicant were to wish to retain the Ferry Landing for use by private boats for instance, restoration of the Cross Lakes Service would be much more difficult/impossible.
- There will likely be increased highway congestion in the queue for the ferry, not just from hotel traffic but from hotel visitors parking illegally on the narrow approach road. Once again limited highway infrastructure in a sensitive location will be compromised.
- At peak times the queue stretches back from the Ferry, past the Hotel entrance and two right bends towards the National Trust car park. Your senior rights of way officer has advised that this section of road is quite

dangerous for pedestrians going to the Ferry. The Pearsall building conversion will increase the occupation of the building from 10 day staff to either 40 residents and staff or 93 residents, staff and bar drinkers if the residents bar were converted into a pub. The development would therefore have a massive adverse impact on traffic and road safety in view of a single track alongside the Ferry queue with no passing places and on-site parking limited to the Hotel residents and staff.

#### Nature conservation interests

- Shoreline has high ecological value and clearing the natural environment from the shoreline and the effect of guests using it would have a detrimental impact.
- Otters are present on the peninsula.
- Bats are present in Pearsall House.
- Will cause environmental damage due to sewage.
- According to the updated Macrophyte & Otter report (and Enforcement Notice E/2024/0003), the shoreline that, in the previous report, had been described as having high ecological value and having several suitable couch locations for otters has been demolished. This has particular significance given prior otter sightings on the peninsula (see photos previous submitted to LDNPA). The proposed landscaping plan does not address the harm done.
- Neither United Utilities, RG Parkins or the applicant have formally discussed the implications of the proposal for FBA and our operations, which include a freshwater species recovery centre and seven holiday lets that have balconies directly above Mitchell Wyke Bay. FBA owns the land on both sides of the United Utilities storage tanks.
- The updated Macrophyte and Otter Survey has indicated that the ecology of the Lake shore has been irreversibly damaged by the Hotel construction activity. The proposed landscape remediation will take tens of years to have an effect and is incomplete as there are no plans to aerate the compacted ground around the damaged trees or replace the obliterated high value ecological lake shore habitat. Any suggestions that there are no otters on the lake shore are false – there were sightings in 2023 before the start of construction but none since

#### Other matters

- The developer, without permission, encroached on Ferry House land in three locations, and one of these locations (a grassy bank) has been gouged out to generate additional space for the hotel development
- Plan showing the boundary between Ferry House and Pearsall House is incorrect.
- Development is major development and should be considered under Policy 26.
- Climate change impacts.
- Previous use was occupied normally 9-5 Monday to Friday.

## **4 Policy and 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 03: Development and flooding
- Policy 04: Biodiversity and geodiversity
- Policy 05: Protecting the spectacular landscape
- Policy 06: Design and development
- Policy 07: Historic environment
- Policy 08: Infrastructure and developer contributions
- Policy 16: Job creation and employment space
- Policy 18 Sustainable tourism and holiday accommodation
- Policy 20: Renewable and low carbon energy
- Policy 24 Lakeshore development

4.3 The National Planning Policy Framework (NPPF) sets out 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 The Claife Community Led Plan October 2013 identifies issues and actions in relation to Travel and the Local Area, including the following issues:

- Minimal use is made of public transport;
- Minimal use of cycling as a means of transport.

4.5 Windermere, Bowness and Troutbeck Bridge Community Plan 2009 identifies the following relevant issues:

- Carbon footprint, impact and reduction;
- Utilisation of alternative energy sources;
- Seek ways to reduce environmental impact of motor vehicles;
- Bathing water standards and water quality;
- Highways and sustainable transport.

## 5 Assessment

5.1 I consider the main issues are:

- Whether the use of this building in the open countryside as a hotel is acceptable in principle
- Impact on residential amenity
- Flood risk and drainage
- Appearance, landscape, cultural and heritage impacts
- Nature conservation interests
- Highway safety

### Principle

5.2 The site lies within the open countryside but is adjacent to the Windermere chain ferry landing between the Far Sawrey peninsula and Ferry Nab, which is close to and within walking distance of the rural service centre of

Bowness. Pearsall House is a large prominent building on the lakeshore. To its immediate north are several residential properties.

- 5.3 In the open countryside Policy 02 (Spatial Strategy) supports the reuse of an existing building, and states that we will support the reuse of buildings for business or residential use where the building:
- contributes to the landscape character or historic environment, and
  - is structurally sound and capable of conversion, and
  - the development would not result in an unacceptable change to its character, and
  - is large enough to accommodate the use proposed without the necessity of major alteration, extension or reconstruction, and
  - is easily accessible to the existing road network and suitable access arrangements can be secured.
- 5.4 Pearsall House, whilst a large prominent building on the lakeshore, is not of vernacular character and it does not contribute to the landscape character or historic environment, therefore not complying with the first criteria above in Policy 02. I acknowledge that Policy 02 requires all criteria to be met and this proposal does not meet the first, however notwithstanding this, I consider it reasonable to note that the proposal would meet the remaining four. I understand that work is required to the roof of the building due to water ingress but have no information to demonstrate that the building is not structurally sound. I address the impact of the development on the landscape below. I consider that the building can accommodate the proposed use without the necessity for major alteration or extension. Whilst the applicant proposes extensions, I do not consider that they are of a major scale or suggest that the building could not accommodate a tourism use without them. The site is adjacent to adopted highway and the suitability of this access is addressed below.
- 5.5 Policy 18 (Sustainable tourism and holiday accommodation) supports proposals for hotels where they:
- are located within or well related to a Rural Service Centre or Village; or
  - appropriately and sympathetically reuse a building of archaeological or historic interest; or
  - are located within or adjacent to an existing visitor accommodation site; and are commensurate with the level of suitable housing and dedicated accommodation for staff which is available locally and accessible to the development by sustainable transport opportunities; and
  - do not introduce inappropriate levels of use to the location.
- 5.6 Whilst I consider that the site would be in a sustainable location in respect of its position close to the ferry, I do not consider that it meets the policy test of being 'within or well related to a Rural Service Centre or Village'; and I do not consider that the building is of archaeological or historic interest. Therefore, the proposal would not be in line with the requirements of Policy 18.

- 5.7 Policy 16 seeks to retain existing land and buildings in employment use (excluding retail and tourism use) to maintain employment development opportunities. The policy states that we would only permit a change of use to a non-employment use where it can be demonstrated that:
- they are unsuitable for employment uses, including other types of employment creating uses such as retail and tourism; and
  - there is no demand for employment space in the locality resulting from an appropriate marketing exercise and other evidence; or
  - exceptionally, viable alternatives are readily available in the locality.

The policy implementation guidance states that we would expect an appropriate marketing exercise to have taken place for a minimum of twelve months.

- 5.8 The application includes sales particulars for the building, one dated 2020/2021 and the other 2021/2022. The applicant advises that 'Pearsall House has been marketed for alternative uses twice over the past two years, with the only interest being undeliverable due to the issues of the location and size not being attractive to alternative employment uses. Given the location being outside of a local centre, and away from areas usually preserved as the best employment areas such as business parks or close to town centres, it has not attracted alternative employment uses through marketing'.

- 5.9 Representations query the marketing exercise and state that it was not sufficient. However, I consider that it meets the requirements for the marketing exercise set out in Policy 16. The current proposal would result in a tourism use on the site, which would include the provision of employment, so the development would not result in the loss of employment opportunities and as such I consider that it accords with the principles of Policy 16.

- 5.10 The existing lawful use of the building as offices and laboratory places it within Class E of the Use Classes Order – Commercial, Business and Service.

- 5.11 The NPPF is a material consideration in the determination of planning applications. The NPPF states that “planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt” and that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (NPPF, para.85). In order to support a prosperous rural economy the NPPF states “Planning...decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;
  - b) the development and diversification of agricultural and other land-based rural businesses;
  - c) sustainable rural tourism and leisure developments which respect the character of the countryside; and

- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

Planning...decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist". (NPPF paras. 88 and 89).

- 5.12 Whilst there is tension between the above policies as to the acceptability of the proposal, I consider the circumstances of the site support the proposed change of use. The building is a large vacant building with a lawful Class E use. Whilst the car ferry is weather dependant, it does provide for good access to a Rural Service Centre. The development would also create employment opportunities. As such, I consider that whilst there are some conflicts with elements of the Development Plan, overall the proposal is in compliance with the Development Plan and gains additional support from other material considerations, including the NPPF and the fall-back position of an existing lawful use.

#### Impact on residential amenity

- 5.13 The application site is adjacent to Ferry House, a building which contains 13 local occupancy dwellings. There is currently no hard boundary between Ferry House and the application site. A number of objections have been received from Ferry House residents in respect of the impact of the development on their residential amenity.
- 5.14 There are also six one-bedroom apartments to the north-west of the application site on the peninsula. These have planning permission for occupation by students and use as short-term holiday letting.
- 5.15 The development would introduce a tourism use at Pearsall House, with bedrooms across all floors and with an outlook from all elevations. There would be a bar for residents of the hotel which is located to the southern end of the building (this has been relocated during the course of the application).
- 5.16 Due to the close relationship between Pearsall House and Ferry House, which is occupied as permanent residential flats, the impact on the amenity of the residents of Ferry House is a main consideration in the acceptability of the proposal. The residential flats have windows which look directly onto Pearsall House in the south elevation, and the amenity space for Ferry House abuts the north elevation of Pearsall House.

- 5.17 In terms of the physical works to Pearsall House, the roof extension would increase the mass of the building and be to the height of the existing stairwell to the north elevation of the building. However, due to the height and design of the roof extension, being a hipped roof where the roof slope would project away from Ferry House, I do not consider that it would result in a detrimental impact on the amenity of Ferry House nor warrant refusal of the application, by way of overshadowing and loss of light.
- 5.18 With regards to overlooking and loss of privacy from the development to the residents of Ferry House, the applicant is proposing that all windows in the north elevation of the building adjacent to the amenity space of Ferry House are obscure glazed. This can be secured by condition and I also recommend that the windows are non-opening. As such, I do not consider that the development would result in overlooking or loss of privacy to Ferry House.
- 5.19 The change of use of the building would result in a change in activity which could impact residential amenity, in particular by way of movement and activity. The development would result in a hotel with 18 beds and a bar area. The applicant advises that the bar will be open until 11pm and only available for residents of the hotel. The hotel would not provide food so guests would have to travel to and from the site for meals. There are no physical boundaries between Ferry House and the application site. A boundary fence is proposed along the Ferry House boundary of the site. I consider it necessary to require that this fence has been erected prior to the first use of the site. At the previous committee, Members considered it necessary to restrict by condition both the cooking of food within bedrooms and the installation of external flues to ensure that there is no detrimental impact on the neighbours by way of noise and odour – these conditions are recommended.
- 5.20 Whilst I accept that the development would give rise to an increase in activity above the previous office use, which I understand was not used to the building's full capacity or in the evenings or at weekends, I do not consider that the size of the hotel proposed would result in such unacceptable impacts by way of activity. I consider that the measures proposed as part of the application and the conditions recommended could adequately mitigate any impact.
- 5.21 In relation to the impact of the development on the six one-bedroom apartments, given the distance between Pearsall House and these units and the intervening road I do not consider that the development would result in harm to the residential amenity of these units.
- 5.22 The development would include the provision of manager's accommodation within the basement of the building. Whilst the standard of accommodation provided would not be appropriate for permanent housing, given its use and location in a wider building with external amenity space, I consider it acceptable in this instance.

- 5.23 I am therefore satisfied that the development would not have an unacceptable impact on amenity due to visual intrusion, overlooking, overshadowing, overbearing effect, noise, light pollution or other adverse impacts. In my opinion, a high standard of amenity for existing and future users of the property and neighbours would be maintained. The development is acceptable in terms of impact on amenity and satisfies the requirements of Local Plan Policy 06 and the NPPF.

#### Drainage

- 5.24 Committee considered this application at its meeting on 4 October 2023. Committee resolved to Delegate to the Head of Development Management to approve the application subject to conditions and a satisfactory response from United Utilities in respect of drainage and any drainage conditions required.
- 5.25 In assessing the application previously the adequacy of drainage infrastructure and the potential environmental consequences of the proposed development as a result was an important consideration. This remains the case.
- 5.26 Conserving and enhancing the area's wildlife is a statutory purpose of the National Park (National Parks and Access to the Countryside Act 1949, Section 5). We have a duty to seek to further National Park purposes in exercising our functions (National Parks and Access to the Countryside Act 1949, Section 11A(1A)). The Development Plan states that we will support developments which are consistent with National Park purposes, and expects the National Park's special qualities, including its wealth of habitats and wildlife, will be conserved and enhanced (Policy 01). Policy 04 deals specifically with biodiversity stating that (amongst other things) we want to: protect our important habitats, sites and species; achieve bigger, better, more joined up and resilient habitats; and improve the function of ecosystems. This means that we will only support proposals which would have significant and harmful direct or indirect effects on biodiversity and ecosystems processes in limited circumstances.
- 5.27 To avoid adverse impacts on the National Park, for example as a result of the environmental damage which policies 01 and 04 seek to avoid, Policy 08 sets an expectation that new development will be adequately supported by infrastructure. Policy 08 states:

*“We will seek to ensure that new development is adequately supported by infrastructure, and ensure that developments can be made acceptable in the context of conserving and enhancing the Special Qualities and attributes of Outstanding Universal Value.”*

- 5.28 To achieve this, Policy 08 continues:

*“we will only permit development where:*

- adequate infrastructure exists relevant to the development proposed without prejudicing existing users; or*

- *any additional or enhanced infrastructure necessary to mitigate the impact of the development is provided either directly as physical works or through a financial contribution.”*
- 5.29 The adequacy of existing drainage at Pearsall House, and whether there is a reasonable prospect of upgrades being undertaken is a matter of significant contention.
- 5.30 Foul and surface water from Pearsall House discharges into a sewer provided and operated by United Utilities (the sewerage undertaker) who ultimately make provision for the waste to be treated at a public sewage treatment works. Discharging to a public sewer provided and operated by the water and sewerage companies is Government’s preference as set out in National Planning Practice Guidance (paragraph 020, Reference ID 34-020-20140306). United Utilities are regulated variously by OFWAT, the Environment Agency and the Drinking Water Inspectorate through non-planning regimes.
- 5.31 The National Planning Policy Framework (paragraph 201) states that:
- “The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”*
- 5.32 The United Utilities operated sewer network serves the Pearsall House, The Ferry House, the building group addressed as Mitchell Wyke Bay (between them containing around 20 dwellings) and the public toilets. We understand that the sewer receives both foul and surface water from these properties.
- 5.33 There is no treatment works at this location. The sewer leads to a holding tank adjacent to Mitchell Wyke Bay. United Utilities empties this periodically by tanker. Waste is tankered to Ambleside Wastewater Treatment Works for treatment, with resulting treated water discharged to Windermere.
- 5.34 Available information indicates that the holding tank has been a source of pollution incidents in the past, reaching capacity quickly, and exceeding an untreated combination of sewage and surface water directly into the lake. United Utilities tell us investigations found that much of this exceedance was a result of lake water entering the tank, and that remedial works have since addressed this issue. However, the holding tank continues to have a limited capacity.
- 5.35 When planning permission was granted to the Freshwater Biological Association in 2004 for “Extension and alterations to Pearsall Building, conversion of Ferry House to 13 apartments, alterations to car park areas,

new stores and laboratories” (ref. 7/2004/5432) a condition was imposed (condition 2) requiring that:

*“The site shall be drained in such a manner that only foul drainage is connected to the foul system and all surface water shall drain to a separate system”.*

It is our understanding that this condition was not complied with in respect of either the Freshwater Biological Association premises at Pearsall Building or The Ferry House. This means that surface water which should be directed elsewhere continues to enter the sewer from both the application site and its neighbours, absorbing some network capacity. Because of the passage of time this condition can no longer be enforced, notwithstanding non-compliance may be contributing to capacity issues.

- 5.36 The proposed hotel development would likely increase sewage loads discharging to the sewer network. It seems to be disputed between different parties whether the development would result in loadings over and above those which could result if the lawful use of the premises as an office were maximised. I consider available information, in particular the advice of United Utilities and the Environment Agency, indicates the limited capacity of existing sewer infrastructure risks a need for more than daily emptying of the holding tank should the development proceed using existing infrastructure. This poses unacceptable pollution risks. Information also indicates that issues are so acute that even if the lawful use were simply to resume, problems could result. My conclusion is that the existing sewer infrastructure is inadequate and upgrades are required to accommodate the proposed development.
- 5.37 United Utilities recognises upgrading is necessary. United Utilities has indicated that, in line with its obligations as sewerage undertaker, it intends to upgrade the existing sewerage infrastructure from a holding tank to a treatment plant. Upgrading has been proposed to and approved by OFWAT in the PR24 price review as a non-statutory enhancement. This forms part of United Utilities’ *Windermere - Enhancement case*. This means funding has been approved for United Utilities to bring forward upgrades by no later than 2030.
- 5.38 Government’s National Planning Practice Guidance states that “the timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to the public sewage system have been carried out”.
- 5.39 Recognising the existing infrastructure capacity issues, in response to United Utilities proposing upgrades, and those upgrades having been approved by OFWAT, the applicant proposed that planning permission be granted subject to a Grampian condition preventing the hotel being brought into use before the sewage network is improved, or at the latest

by 1 March 2030 (the final date by which United Utilities could have upgraded the works in accordance with its OFWAT approved commitments). The Environment Agency advised us they have no objection to the development on that basis.

- 5.40 However, some objectors to the development have strongly contested that a condition prohibiting use of the hotel until 1 March 2030 is an appropriate solution. They consider there is such uncertainty surrounding the necessary upgrades being delivered that no reasonable planning authority, acting reasonably, could impose such a condition. I understand factors leading to that uncertainty in objectors' minds include likely challenges in finding a suitable outfall location for a treatment works, the limited land available at the existing United Utilities site, and that (because the works are non-statutory enhancements) there is no legal requirement for the works to be completed despite the PR24 approval. Objectors notified us that if planning permission were granted subject to a condition including a 1 March 2030 end date they would consider the decision unlawful and seek judicial review. We made the applicant aware of this.
- 5.41 The applicant responded by proposing an amended Grampian condition omitting the longstop date. This would mean that use of the hotel could not commence until the existing sewage infrastructure was upgraded in accordance with United Utilities' *Windermere – Enhancement case*. In response to the proposed amended condition objectors told us that, notwithstanding the omission of the longstop date which had been a stated concern, their position remained that the proposed sewage infrastructure enhancement is so uncertain that any condition would be inappropriate. They consider the only lawful course of action is to refuse planning permission. They have advised us that if planning permission is granted on this basis they will challenge the approval in the high court.
- 5.42 It is a legal requirement that planning conditions serve a planning purpose, are fairly related to the development to be permitted, and are reasonable (that is to say not so unreasonable that no planning authority acting reasonably could have imposed the condition). The National Planning Policy Framework (paragraph 57) meanwhile expects conditions to be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.43 Measures to address existing infrastructure deficiencies are necessary. In the context of this application a Grampian condition as proposed would serve a clear planning purpose (pollution prevention) and would be directly related to the development to be permitted. A condition could be drafted so as to be precise and enforceable.
- 5.44 Objectors contend improvement works are so uncertain (both in terms of their effectiveness and timetable) that a condition as suggested cannot be considered reasonable. Whether the applicant considers the condition

reasonable is not the test. National Planning Practice Guidance outlines Government's position on when conditions relating to land not in control of the applicant can be used. It states:

*Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – i.e. prohibiting development authorised by the planning permission or other aspects linked to the planning permission (e.g. occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.*

*NPPG paragraph: 009 Reference ID: 21a-009-20140306*

- 5.45 I disagree with the objectors' conclusions. My planning judgement, taking into account the circumstances and evidence, is that it would not be unreasonable to grant planning permission subject to a Grampian condition preventing the proposed hotel being brought into use until United Utilities has upgraded the sewage works. There are undoubtedly constraints on improving the United Utilities site, and a detailed final scheme to upgrade the existing arrangements to a treatment works has yet to be finalised and consented. However, we can have confidence that any enhancements brought forward would satisfactorily reduce the risk of adverse environmental impacts as a result of sewage pollution because they would be regulated by Environment Agency permit, and the Environment Agency can impose phosphorous and other nutrient limits if appropriate. Given that enhancement to create a treatment works is within the sewage undertaker's business plan, has received OFWAT approval in the price review, and considering the comments of the Environment Agency in respect of the permitting process, it appears there is a very good prospect of the improvements coming forward promptly. I certainly do not consider there to be no prospects at all of the enhancements taking place within the time-limit imposed by the permission.
- 5.46 I am aware that the organisation River Action has recently secured permission to bring a claim in judicial review against OFWAT's Price Review (referred to in the previous paragraphs). I am not aware of what relief is being sought in that claim, but in any event consider that the mere existence of a legal challenge to the price review that approved UU's enhancement proposals would not mean that there was "no prospects" of the works coming forward as proposed.
- 5.47 In summary, there are known sewage capacity issues in this area. If the proposed hotel operates before enhancements are complete the development may increase pollution risks. I am satisfied that, having regard to (amongst other things) the provisions of Policy 08, the National

Planning Policy Framework (in particular paragraphs 57 and 201) and relevant National Planning Policy Guidance, infrastructure deficiencies can be reasonably addressed through the use of a Grampian condition preventing occupation of the hotel until such time as the sewerage undertaker (United Utilities) has completed the upgrades detailed in its PR24 submission. Imposing such a condition, by avoiding harm to wildlife, will also further the purposes of the National Park.

#### Flood risk

- 5.48 Part of the site lies within an area with a high probability of flooding (flood zone 3). The building is outside of this area, however in flood events it can become isolated with flood water surrounding the building. Representations received advise that this happened to Pearsall House in flood events in 2009 and 2015.
- 5.49 The applicant has provided a flood risk emergency plan. The Environment Agency have been consulted and consider that the development is acceptable in respect of flood risk if the proposed mitigation measures are implemented. I see no reason to take a different view.

#### Appearance and landscape, cultural and visual impact

- 5.50 The highest level of protection is given to the spectacular landscape of the National Park by Policy 01. Policy 05 requires the highest level of protection for the landscape in assessing development proposals and that decisions will be guided by the Lake District Landscape Character Assessment (LCA) recognising the distinctive characteristics identified in the Landscape Character Types and Areas of Distinctive Character, the World Heritage Site Nomination Document and the Historic Landscape Characterisation.
- 5.51 Paragraph 189 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks... which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks. The NPPF states heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations (paragraph 189), and that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Policy 07 seeks to conserve and enhance the significance of heritage assets, including the character, authenticity, integrity, setting and views of the historic environment. In this case the relevant heritage assets are the English Lake District World Heritage Site and Claife Viewing Station.
- 5.52 The site is covered by Landscape Character Type M: Lowland Valley; and Area of Distinctive Character 40: Lower Windermere, as set out in the Landscape Character Assessment (LCA) SPD. The LCA states that for

this landscape character type there is mixed landcover of pastoral grazing land and woodland adjacent to the rivers of lakes.

- 5.53 The LCA identifies distinctive characteristics of the Lower Windermere area including: 'Southern half of Windermere Lake, studded with islands, with its extensive ancient semi-natural woodland right down to the lake shores, punctuated by scattered large residences, provides a strong sense of enclosure'. The sense of place of the western shore of Windermere, is characterised by there being a 'distinct change in landscape character between the more settled east shore and the densely wooded, less accessible west; To the west, an almost continuous swathe of predominantly broadleaved woodland cloaks the shore, with patches of open farmland, parkland or grassland overlooked by farmsteads or large houses. The woodland has a dense, green understorey, which often comes alive in spring with swathes of bluebells and contributes subtle textures and seasonal colour changes. This results in a relatively strong sense of enclosure and denotes an intimate-scale landscape, with occasional glimpsed views across Lake Windermere to the east'.
- 5.54 With regards to the English Lake District World Heritage Site, the application site is located within the Coniston Valley, with its location on the western shore of Windermere. However, as the site is on the peninsula into the lake, it has a close relationship with the Windermere Valley. The WHS nomination documents state that 'The western shore of Windermere, around Claife, was the location of the some of the earliest Picturesque tree planting in the Lake District'. Claife Viewing Station, a Grade II listed building, is evidence of the picturesque movement with the building erected in the location of a viewing station identified by Thomas West in his 1778 Guide to the Lakes, for visitors to use to enjoy the landscape, and it is therefore associated with the early tourist industry. The site and its environment demonstrates evidence of the Outstanding Universal Value (OUV) of the WHS; namely its relationship with the physical natural landscape of lakes and valleys; and the ability of people to experience the spirit and feeling of the Lake District.
- 5.55 The landscape value of the site is therefore high. The sensitivity of visual receptors, (those using the lake, public rights of way and access land, public highways and residents) is also high, based on the fact that people are often in the National Park to experience its spectacular scenic beauty and cultural landscape, use the rights of way for recreational activities, or experience views across the wider landscape.
- 5.56 Proposed physical works to the site include the addition of a second storey of accommodation in the form of the addition of a hipped roof and part increase in height of existing walls; alterations to fenestration; alterations to provide increase in basement lightwell to the west elevation; and landscaping to the site, including boundary treatments and a store building.
- 5.57 Whilst the existing building is not traditional in design, it has a distinctive character and use of local materials.

- 5.58 The roof addition, which includes areas for a terrace on the existing flat roof, would be set behind the castellated walls, which are proposed to be increased in height, and whilst it would be a hipped roof, which is not traditional in style, it would be covered in slate and would in my opinion suit the character of the existing building.
- 5.59 The roof extension would also sit at a lower level than the roof of Ferry House, which is a building of traditional character and value. I consider that the difference in design between the two buildings would be retained and due to its height, the proposed extension would not result in a dominant addition nor harm to the character and appearance of the area.
- 5.60 I consider that the alterations to the fenestration and the basement area to the west elevation area acceptable and consistent with the appearance of the existing building.
- 5.61 With regards to the landscaping, the hard landscaping involves the enlargement of the existing car park, the addition of boundary fencing to the northern boundary and the creation of a timber clad bin store. I consider that these are acceptable (both in term of the appearance of the development and, in respect of the car park, likely activity upon it), seen in the context of the existing building.
- 5.62 I am therefore satisfied that the development is acceptable in respect of appearance. Given these conclusions, I do not consider that the development would have a detrimental impact in respect of landscape and visual impact.
- 5.63 With regards to cultural heritage, given the existing lawful use of the site, and the acceptability of the physical works, I do not consider that the development would have a detrimental impact on either tangible or intangible attributes of outstanding universal value (OUV) of the English Lake District World Heritage Site, or on the setting of the Grade II listed Claife Viewing Station.
- 5.64 I am therefore satisfied that the proposed development is acceptable in respect of appearance and landscape, cultural heritage and visual impact, satisfying the requirements of Local Plan policy and the NPPF.

#### Nature conservation interests

- 5.65 Trees within the site along the boundary with the lakeshore are protected by a Tree Preservation Order (TPO).
- 5.66 Under Article 12 of the EC Habitats Directive and Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 we have had regard to the requirements of the Habitats Directive. The applicant commissioned a bat survey. The survey found evidence of low numbers of bats roosting on the external walls however it considers that the use of the building by bats is not likely to be significant and with the retention of gaps on the building and mitigation measures proposed, the development is unlikely to result in significant disturbance or loss of roost sites.

- 5.67 As part of the application submission considered previously by Committee, a macrophyte and otter survey, details of tree work and construction method statements were considered. I considered that the measures as then proposed were acceptable subject to conditions.
- 5.68 As set out in paragraph 2.8, unauthorised work has taken place on the site since the application was last reported to committee resulting in the condition of the site being different to that assessed within the reports submitted with the original planning application. An enforcement notice has been served. There has been significant damage to trees, including pruning, damage from machinery to roots, trunks and branches, and compaction of material around trunks and in root protection areas. Unauthorised engineering operations have also occurred with excavations, formation of a banking and the laying of hand standing.
- 5.69 To address the changes to the site, the applicant has submitted a revised macrophyte and otter survey and a revised Arboricultural Impact Assessment.
- 5.70 The revised Macrophyte and Otter Survey states:
- 'In 2022 and 2024 no macrophyte species were found during the surveys. The lake bed was found to comprise cobbles and boulders. It is shallow, less than 1m, and exposed to boatwash.
  - No evidence of use of the shoreline by otters was found. In 2022 there were several suitable couch locations within the dense lakeshore vegetation including fallen trees. In 2024 these features had been removed.
  - In 2022 the shoreline was found to be natural, with Alder (*Alnus glutinosa*), Goat Willow (*Salix caprea*) and Aspen (*Populus tremula*) to the strandline. The softshore hydrosere was good with unstable gravels giving way to stable, organic rich and stable sediments inshore. Rhododendron (*Rhododendron ponticum*) planted to the side of the carpark on the upper shoreline and this reduced the value of the upper shoreline in this area.
  - This was a natural area of shoreline, adjacent has been subject to extensive modification with rock armour installation and or amenity grassland extending to the upper shore. In 2022 the shoreline was hard to access from Pearsall House and appeared to have been left entirely natural.
  - In 2023 rhododendron to the side of the carpark on the upper shoreline had been removed and the embankment down to the lakeshore regraded. Fallen trees in the lake had been removed and the shoreline appeared exposed and open. There was no build-up of stable, organic rich and stable sediments inshore at the high water level.
  - In 2022 the upper shoreline transitioned into woodland. In 2024 the shoreline was devoid of vegetation and small trees which had been removed with the passage of tracked machinery to remove rock armour
  - In 2022 trees occurred down to and past the normal water level of the lake. In 2024 trees falling into the lake had been removed.

- In 2022 sheltered bays with stable gravels gave way to dense shrubs and trees. In 2024 the shoreline was open and largely devoid of vegetation, with no transition across the shoreline.
- In 2022 trees on the shoreline extended beyond the normal water line with sheltered gravel bays showing a good transition from wetland to dry habitats. Fallen trees had been removed by 2024'.

- 5.71 A revised Arboricultural Impact Assessment indicating protection fencing and a proposed soft landscaping plan has been submitted. This proposes the re-profiling of the land adjacent to the lakeshore and planting including tree and shrub planting. Due to planting and earthworks to the lakeshore, some of the landscaping works would be within the tree protection fencing as shown on the Arboricultural Impact Assessment. Given the condition of the site, I consider that further detail is required in respect of tree protection measures and recommend a condition requiring the submission of further details. I also consider that further detail is required in respect of the landscaping (including the materials of the retaining wall) and consider a condition requiring full hard and soft landscaping details to be necessary.
- 5.72 Windermere is a County Wildlife Site. A construction method statement has been submitted with the application, however I do not consider that this is now sufficient given the changes to the site. I therefore consider a condition necessary which requires the submission of a construction method statement which includes measures to control the emission of dust and dirt, and pollution to the lake.
- 5.73 This application is not subject to the statutory requirements of Biodiversity Net Gain as the application was submitted prior to 2 April 2024.
- 5.74 As such, subject to the conditions recommended in respect of ecology, trees and construction methods, I consider that the development is acceptable in respect of nature conservation interests, satisfying the requirements of the NPPF and Local Plan Policy 04.

#### Highways safety

- 5.75 The proposal includes the provision of 24 car parking spaces, which includes two disabled parking spaces. An area is indicated for cycle parking. Delivery vehicles would have the ability to stop and turn to the southern end of the site where the bin store would be located.
- 5.76 The application site is located on a peninsula. The public road is two lane, single carriageway, with no pavement. Representations express concern that cars which are queuing to access the ferry block the road making access to and from the site difficult.
- 5.77 The building exists and has a lawful use. The Local Highway Authority have been consulted and consider that the proposal would generate significantly less traffic than the existing approved use of the site can generate as office space; that the proposal will reduce the traffic impact on

the local transport network; and that sufficient car parking is proposed for a 15 room hotel.

- 5.78 There is an access route between Ferry House and Pearsall House. On a site visit a resident advised me that the gate at Pearsall House is locked but they have a key to gain access. I understand this arrangement existed when the FBA occupied the building. This arrangement is proposed to be stopped with a new hard boundary between the application site and Ferry House. The Local Highway Authority advise that this would be a slightly adverse impact on highway safety because it would create the need for turning and reversing movements on both the Pearsall House site and the Ferry House site. The application has indicated turning areas on the proposed site plan and I consider this to be acceptable.
- 5.79 The Authority's Senior Rights of Way Officer has advised that this section of road is quite dangerous for pedestrians going to and from the ferry and that he would like to see this as an opportunity to have some planning gain, either a pavement or footpath creation or something to help the situation. The Local Highway Authority advised that 'The LDNPA Infrastructure Delivery Plan identifies cycle and walking improvements to be delivered between Hawkshead and Ferry House. The improvements identified in the plan would benefit the users of the hotel. Delivery of the improvements are the responsibility of the LDNPA' Our Senior Rights of Way Officer suggests "a planning condition or S106 agreement could be used to help to secure the delivery of this improvement. We have not set out a suggestion for a condition or S106 agreement because the delivery of improvement within the national park are the responsibility of the LDNPA".
- 5.80 Policy 08 and the NPPF require developer contributions where additional or enhanced infrastructure is necessary to mitigate the impact of development, therefore, to make an unacceptable development acceptable where possible.
- 5.81 I acknowledge that the proposal may result in more pedestrians accessing the site from the ferry, and that our PROW officer considers that this section of highway can be 'quite dangerous for pedestrians'. However, I note that the Local Highway Authority who manage the highway have not raised any objections, and whilst they refer to highway improvements they have not identified that these improvements are necessary to make the development acceptable. I consider that the development is acceptable in respect of pedestrian safety. In any event, I do not see there are opportunities for the application provide a pavement within the highway adjacent to the site, as it is a fairly narrow two-lane single-carriageway road with stone walls on either side, in a location where cars queue to board whilst others are leaving the ferry, requiring two lanes.
- 5.82 Some representations have highlighted that Windermere Lake Cruises have operated from Ferry Landing to Bowness Bay under an informal licence agreement to use a landing owned by the applicant. Representations ask that a right of access for third-party passenger vessels to the applicant's landing is secured through the planning

application. Planning conditions cannot be used to require public access to private land. This could only be achieved by planning obligation. A planning obligation can only be secured where it is necessary to make an otherwise unacceptable development acceptable. I have not identified any unacceptable harms from the development which need to be addressed by allowing third party passenger vessels access to the applicant's property. A planning obligation is neither necessary nor appropriate.

### **Other matters**

- 5.83 Private water supply – Representations received state that water supply to Pearsall House is via a private water supply controlled by the Ferry House Management Company and that the intensification of the site resulting from the proposed development will result in excessive use and it is unlikely that the current supply arrangement will be sustainable. As referred above, the lawful use of the building is a commercial use, and whilst the current proposal would result in overnight accommodation which the lawful use would not, I do not consider that given the number of guests the use could accommodate that the application is likely to affect the amenity of neighbours by reason of water supply impacts.
- 5.84 Renewable and low carbon energy – The application states that the intention is to utilise the existing biomass boiler to achieve the requirement set out by Policy 20 for the development to generate 30% of its operational energy requirements through decentralised, district heating and renewable and low carbon energy. The application proposes alternative energy sources if required. As it is not yet known if the biomass boiler would achieve the 30% requirement, I consider a condition is necessary requiring additional details to be submitted and implemented.
- 5.85 Details within submission – There are details within the supporting documents that refer to elements that were proposed as part of the withdrawn application, for example within the arboricultural impact assessment it refers to jetties. I acknowledge this but consider that the proposed development is clear from the plans that have been submitted.
- 5.86 Intentional unauthorised development - A planning policy statement on Green Belt Protection and Intentional Unauthorised Development came into force at the end of August 2015. This makes intentional unauthorised development a material consideration in the determination of planning applications. There is no guidance or definition of 'intentional unauthorised development'. Because it is impossible to know what was in a particular person's mind at a particular moment in time, we must construct a picture and reach a view of the weight to be attributed to this issue, based on the information and evidence available around any individual retrospective case. I have no evidence demonstrating that there was intent on the applicant's part to proceed with unauthorised development knowingly unlawfully, or with malicious intent. As such I afford the ministerial statement little weight in this case.

- 5.87 Westmorland and Furness Environmental Protection recommend conditions about contamination of land. Given the application relates to an existing building which has been in use as an office premises, and that external development principally relates to landscaping and car parking provision, I see no evidence that such a condition is necessary in relation to the specific development proposed.

**Is the proposal major development for the purposes of Policy 26 and the NPPF?**

- 5.88 Representations received state that the development is major development and Policy 26 should apply.
- 5.89 Policy 26 states that proposals for major development will be refused except in exceptional circumstances and where it can be demonstrated that they are in the public interest. The Local Plan states that whether a proposal constitutes major development is determined by reason of the proposal's nature, scale and setting and whether it has the potential to have a significant adverse impact on the National Park's statutory purposes.
- 5.90 The NPPF advises, that for the purposes of paragraphs 176 and 177, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
- 5.91 As assessed above, I have found the development to be acceptable and of a scale and nature which would not have an adverse impact on the National Park. I do not consider the proposal major development within the context of Policy 26 or the NPPF.

**6 Conclusion**

- 6.1 This application presents an opportunity to reuse a prominent building on the western shore of Windermere. The development would provide the building with a new use. The development would have economic benefits, and the NPPF tells us significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.2 The premises is already connected to the mains sewer. Information indicates capacity issues with the sewer infrastructure. I find that unless the sewer infrastructure is upgraded the development presents a pollution risk. Enhancements to sewer infrastructure are proposed by United Utilities. I consider these enhancements would address identified risks. As set out above I consider it would be reasonable to use a Grampian condition to address these issues in the circumstances of this case.
- 6.3 I am satisfied that in all other respects, including impact on residential amenity; scale, design and appearance; impact on the historic

environment; nature conservation interests; and highways safety, the development is acceptable.

- 6.4 Subject to the conditions recommended and having regard to the provisions of the development plan (in particular Lake District National Park Local Plan Policies 01, 02, 03, 04, 05, 06, 07, 08, 16, 18 and 24) and other material considerations (including the provisions of the NPPF), the development is considered to be acceptable.

**RECOMMENDATION: APPROVE with conditions**

**Conditions/Reasons**

- 1 The development hereby permitted shall be commenced before the expiration of THREE years from the date hereof.

REASON: Imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act, 1990.

- 2 The development hereby permitted shall not be carried out otherwise than in conformity with the following submitted plans and details and recommendations and mitigation measures contained therein:

- Drainage strategy by RG Parkins ref.L40732.DS/001D dated 27 March 2025
- Macrophyte and Otter Survey by Envirotech ref. 7874, Version 4.
- Drawing no. 6119/c/b/21 Rev.C – Main building elevations S / E
- Drawing no. 6119/c/b/22 Rev.C – Main building elevations N / W
- Drawing no. 6119/c/b/03 – Bin store
- Drawing no. 6119/d/c/01 – Boundary fence and hedge
- Drawing no. 6119/c/b/06 Rev.E - Plans
- Drawing no. 6119/c/b/01 Rev.D – Site plan
- Drawing no. 6119/b/b/01 – Site location plan
- Bat survey by Envirotech ref. 7874
- Supplemental Access Statement dated June 2023 by Mason Gillibrand Architects
- Flood Risk Assessment dated September 2022 by Mason Gillibrand Architects

REASON: For the avoidance of doubt.

- 3 The development authorised by this permission shall not be brought into use or occupied until permanent improvement works to (or in replacement of) Ferry House Wastewater Treatment Works (as proposed in United Utilities PR24 Windermere Enhancement Case dated August 2024, ref. UUWR\_78) have been constructed and brought into operational use.

REASON: To ensure the approved development does not contribute to a decline in water quality in Windermere in accordance with the principles of development in the adopted Lake District National Park Local Plan policies 01 (National and international significance of the Lake District), 04 (Biodiversity and geodiversity) and 08 (Infrastructure and developer contributions).

4 Surface water shall not be drained from the premises to the public sewer network.

REASON: To ensure the approved development does not contribute to a decline in water quality in Windermere in accordance with the principles of development in the adopted Lake District National Park Local Plan policies 01 (National and international significance of the Lake District), 04 (Biodiversity and geodiversity) and 08 (Infrastructure and developer contributions).

5 No further development shall take place, including any works of demolition, until a construction method statement has been submitted to, and approved in writing by, the Local Planning Authority. Thereafter works shall take place in accordance with the approved details.

The Statement shall provide for:

- a) the parking of vehicles of site operatives and visitors
- b) loading and unloading of plant and materials
- c) storage of plant and materials used in constructing the development
- d) measures to control the emission of dust and dirt during construction
- e) protection measures to prevent pollution outputs to protected waters
- f) hours of working

REASON: In order to minimise the risk of pollution or disturbance a construction method statement needs to be agreed before work resumes on site. This is in accordance with policies 04 (Biodiversity and geodiversity) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework.

6 Prior to further development taking place, including any works of demolition, tree protection measures shall be put in place in accordance with a tree protection method statement that has been submitted to and approved in writing by the Local Planning Authority. Such method statement shall provide details and plans of the measures and working practices to be employed to prevent damage to trees on and around the application site.

Not later than five working days prior to further development taking place, including any works of demolition, the applicant/developer shall notify the Local Planning Authority in writing when the tree protection measures are in place so that they can be inspected and agreed in writing by the Local Planning Authority.

All tree protection measures shall be retained for the duration of works.

REASON: To minimise the risk of damage to nearby trees, protection measures need to be in place before work starts on site and maintained during the construction period in accordance with Policies 04 (Biodiversity and geodiversity), 05 (Protecting the spectacular landscape) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035.

7 Not later than 12 months from the first use or substantial completion of the development, 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

hard and soft landscaping proposals and boundary treatments.

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.

The planting shall thereafter be maintained in accordance with a management plan which has first been submitted to and approved in writing by the Local Planning Authority, or such management plan as the Local Planning Authority may from time to time approve thereafter. The first management scheme shall be submitted to the Local Planning Authority not later than 12 months after the approval of the planting schedule required above.

REASON: To safeguard the visual amenities of the area in accordance with Policies 05 (Protecting the spectacular landscape) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035.

8 The premises shall be used as a hotel and for no other purposes (including any other purpose in Class C1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order). No meals or refreshments shall be served to non-residents.

REASON: To ensure that other uses are subject to formal control by the Local Planning Authority and to ensure the residential amenity of the neighbouring residents is protected.

9 No deliveries shall be taken at or despatched from the site outside the following hours:

- 8.00 a.m. to 6.00 p.m. Monday - Friday
- 8.00 a.m. to 1.00 p.m. Saturday

No deliveries shall be taken at or despatched from the site on Sundays or Public Holidays.

REASON: To safeguard the amenities of dwellings at neighbouring Ferry House in accordance with in accordance with Policy 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework.

10 The accommodation hereby approved in the basement marked as Staff Accommodation on the approved drawing no. 6119/c/b/06 Rev.E - Plans, shall not be occupied otherwise than by the proprietor/manager or members of staff of the hotel together with any dependants living with such persons.

REASON: In accordance with Policies 02 (Spatial strategy), 06 (Design and development) and Policy 18 (Sustainable tourism and holiday accommodation) of the Lake District National Park Local Plan 2020-2035 and the National Planning Policy Framework, as permission would not be granted for residential accommodation in this location for occupation by persons unconnected with the

business.

11 Before the development hereby permitted is brought into use the boundary fence to the north boundary of the site with Ferry House (as shown on drawing no. 6119/c/b/01 Rev.D – Site plan and drawing no. 6119/d/c/01 – Boundary fence and hedge) shall be installed. Such fence shall be retained and maintained at all times thereafter in accordance with the details shown on drawing 6119/c/b/01 Rev.D).

REASON: To safeguard the amenities of the adjacent properties in accordance with Policy 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework

12 Before the development hereby permitted is brought into use the windows in the north elevation of the building (as shown on drawing nos. 6119/c/b/22 Rev.C and 6119/c/b/06 Rev.E ) shall be glazed with obscure glass. Such windows shall be maintained as such at all times thereafter. Such windows shall be non-opening and maintained as such at all times thereafter.

Notwithstanding the provisions of Section 55(2)(a)(ii) of the Town and Country Planning Act 1990, no other type of glass shall be fitted to the said windows without the prior written approval of the Local Planning Authority.

REASON: To safeguard the amenities of the adjacent property in accordance with Policy 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework.

13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected or materially altered on the land to which this permission relates without application to, and the grant of permission by, the Local Planning Authority.

REASON: The Local Planning Authority considers that such development should be subject to formal control in order to ensure that the residential amenity of the adjacent residential property are secured in accordance with in accordance with Policy 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework.

14 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990, no outside lighting shall be installed on the premises other than as detailed on Drawing no. 6119/c/b/01 Rev.D - Site plan.

REASON: To safeguard the character and appearance of the site and in order to avoid harmful impacts upon the character and appearance of the area, special qualities of the Lake District National Park, or the significance of the English Lake District World Heritage Site, in accordance with Lake District National Park Local Plan 2020-2035 policies 01 (National and international significance of the Lake District), 02 (Spatial strategy), 05 (Protecting the spectacular landscape), 06 (Design and development) and 07 (Historic environment).

15 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990, no external extraction equipment or flues whatsoever shall be installed on the northern elevation of the premises.

REASON: To safeguard the amenities of the adjacent properties in accordance with Policy 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework.

16 No cooking facilities, other than a kettle, shall be provided in any room within the hotel, other than the kitchen to be used solely by staff at basement level as shown on approved drawing no. 6119/c/b/06 Rev.E – Proposed Plans.

REASON: To safeguard the residential amenity of the adjacent residential properties in accordance with in accordance with Policy 06 (Design and development) of the Lake District National Park Local Plan 2020-2035 and the provisions of the National Planning Policy Framework.

17 Notwithstanding details as shown on the approved plans (Drawing no. 6119/c/b/22 Rev.C – Main building elevations N / W; Drawing no. 6119/c/b/06 Rev.E – Plans; and Drawing no. 6119/c/b/01 Rev.D – Site plan) no excavation shall take place to the west elevation of the building.

REASON: For the avoidance of doubt and to ensure a satisfactory standard of appearance of the development in accordance with the provisions of Policies 05 (Protecting the spectacular landscape) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035.

18 The pitched roof of the roof extension hereby permitted shall be covered and maintained in local blue-grey slates which have been mined or quarried in Cumbria. Such slates shall be riven not sawn, and shall be laid in diminishing courses from eaves to ridge.

REASON: To ensure a satisfactory standard of appearance of the development by the use of traditional materials in accordance with Policies 01 (National and international significance of the Lake District) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035.

19 The stone faced external walls of the building hereby permitted shall be faced in natural stone of a type to match (in terms of size, method of laying, pointing and jointing details) the appearance, character, colour and texture of the stone faced external walls of the existing building.

REASON: For the avoidance of doubt and to ensure a satisfactory standard of appearance of the development in accordance with the provisions of Policies 05 (Protecting the spectacular landscape) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035.

20 The external walls of the building hereby permitted finished in render shall be rendered in a type to match the appearance, character, colour and texture of the render on the existing building.

REASON: For the avoidance of doubt and to ensure a satisfactory standard of

appearance of the development in accordance with the provisions of Policies 05 (Protecting the spectacular landscape) and 06 (Design and development) of the Lake District National Park Local Plan 2020-2035.

21 The development hereby permitted shall not be brought into use until the vehicular access, turning, loading and parking arrangements, including cycle parking, have been constructed in accordance with the approved details as shown on drawing no. 6119/c/b/01 Rev.D - Site plan. The access, turning, loading and parking provision shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior permission of the Local Planning Authority.

REASON: To ensure an appropriate standard of access and turning provision is available when the development is brought into use, in the interests of highway safety in accordance with Policy 08 (Infrastructure and developer contributions) of the Lake District National Park Local Plan 2020-2035.

22 No gates shall open outwards towards the highway.

REASON: To ensure open gates do not cause a hazard to highway users in accordance with Policy 08 (Infrastructure and developer contributions) of the Lake District National Park Local Plan 2020-2035.

23 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.

REASON: In the interests of increasing the proportion of energy generated through renewable and low carbon sources in accordance with Policy 20 (Renewable and low carbon energy) of the Lake District National Park Local Plan 2020-2035.

### **NPPF decision notice requirements**

Town and Country Planning (Development Management Procedure) (England) Order 2015 Article 35(2) statement: The Local Planning Authority has not identified problems arising in relation to dealing with the application.

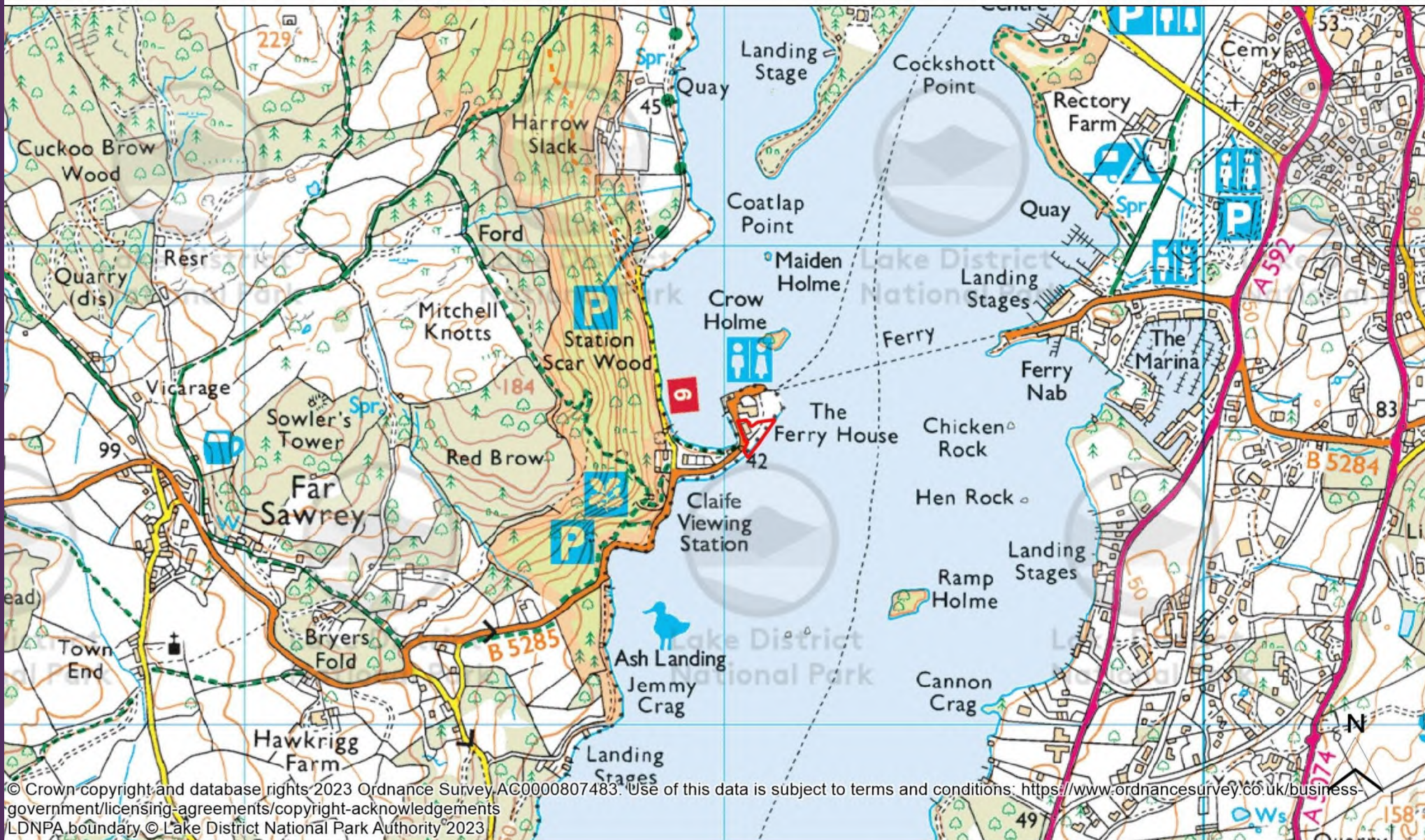
### **Background papers**

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.

7/2023/5255

Pearsall House, The Ferry Landing,  
Far Sawrey

Conversion and change of use to hotel with associated  
landscaping

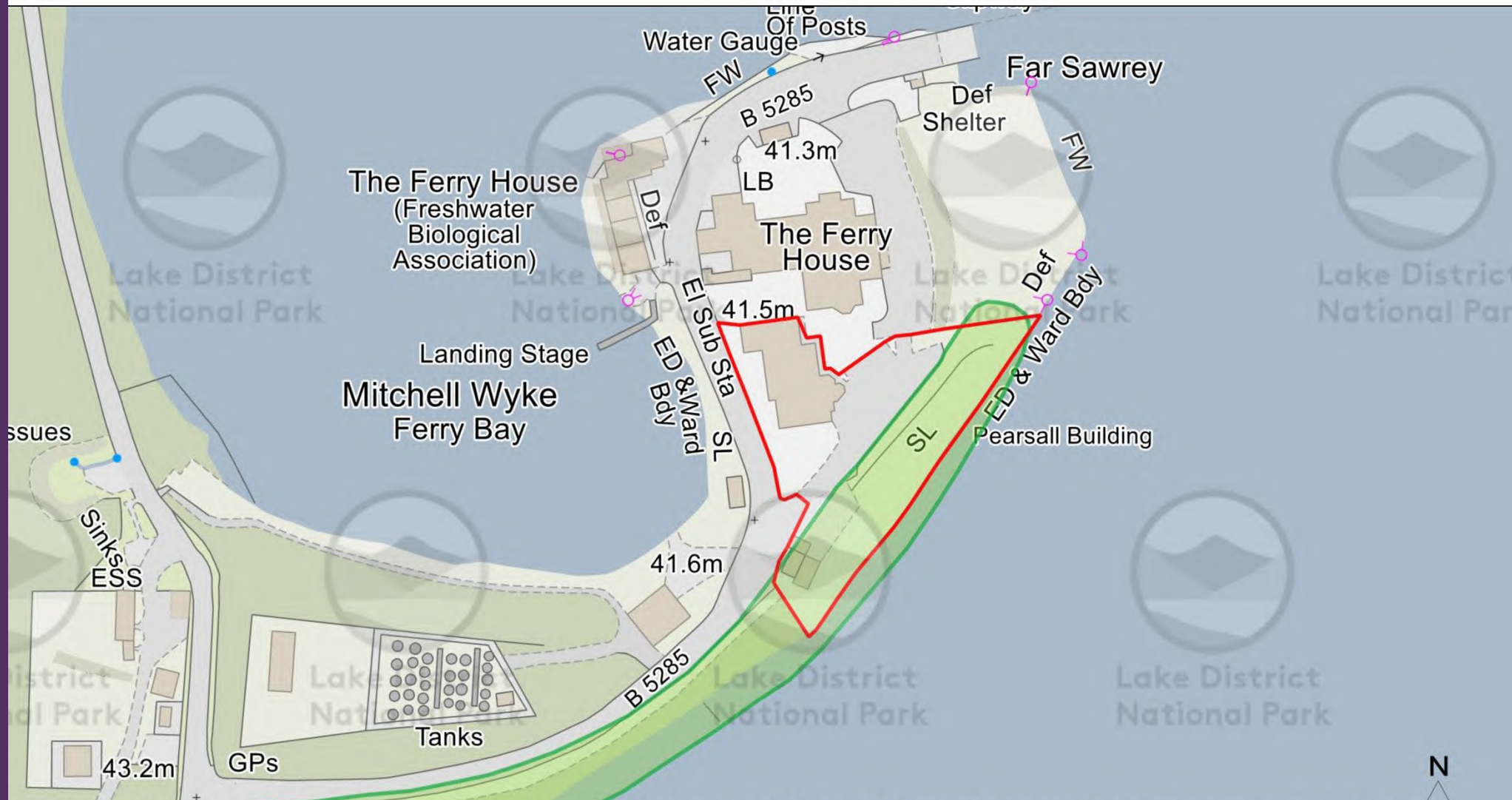


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LDNPA boundary © Lake District National Park Authority 2023

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**Lake District**  
National Park Authority



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 Tree Preservation Orders © Lake District National Park Authority 2023





Bus Stop

Construction site signs and notices

Bus Stop sign with route information



Construction site  
Keep out

**SITE SAFETY**  
Construction work in progress  
Persons are advised to wear caution  
of the danger of entering the site.

- This is a hard hat area
- Protective footwear must be worn
- High visibility jackets must be worn
- No admittance for unauthorised personnel

NO SUBJECTS  
CONSTRUCTION  
LIMIT

















































Application site



PHOTO FROM 2023

proposed pitched roof meeting parapet, creating second floor accommodation (currently roof level)

Outdoor paved area

purple line indicates area of existing hardstanding

Refuse storage for hotel


Existing outbuildings to be retained and adapted to storage for hotel

tree TS unsuitable for retention refer to arboricultural report



### Key

- grass grid
- grass lawn
- stone walls
- stone walls terraced
- terraced
- gravel
- grass lawn domestic
- landscape enhancement
- vegetation
- removed
- Boundary treatment, hedging to both sides will solid fencing to cattle as per drawing 6119/cb/07
- Low light dark into approved bollard lighting, Harper Design bollards for outdoor
- Shielded downward facing wall lights. Single wall luminaires with directed light or similar.

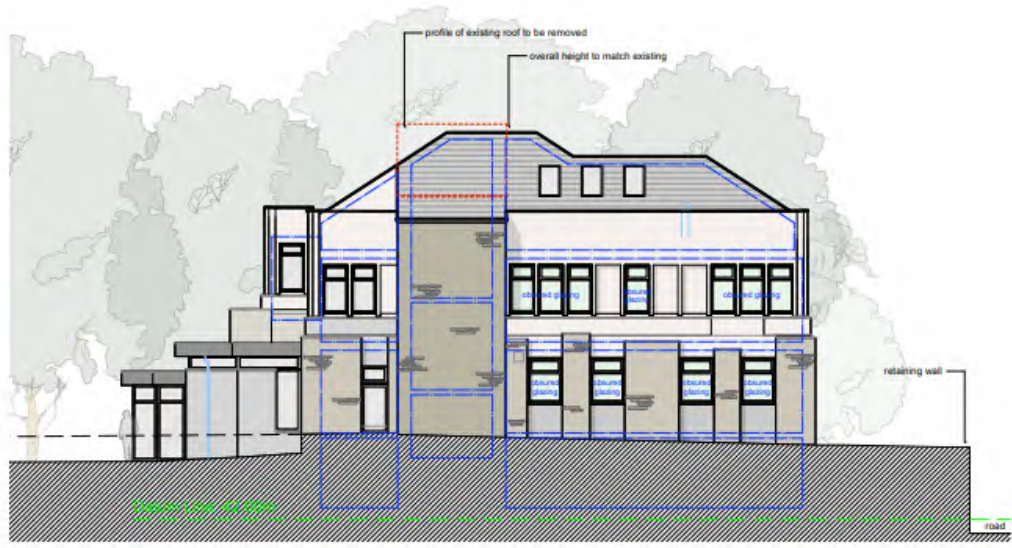


Rev	Issue	Date	By
C	W01	17/03/23	Checked against lighting schedule
C	W02	28/03/23	Checked changes
B	W03	01/03/23	Checked changes
A	W01	22/03/22	Issued for planning

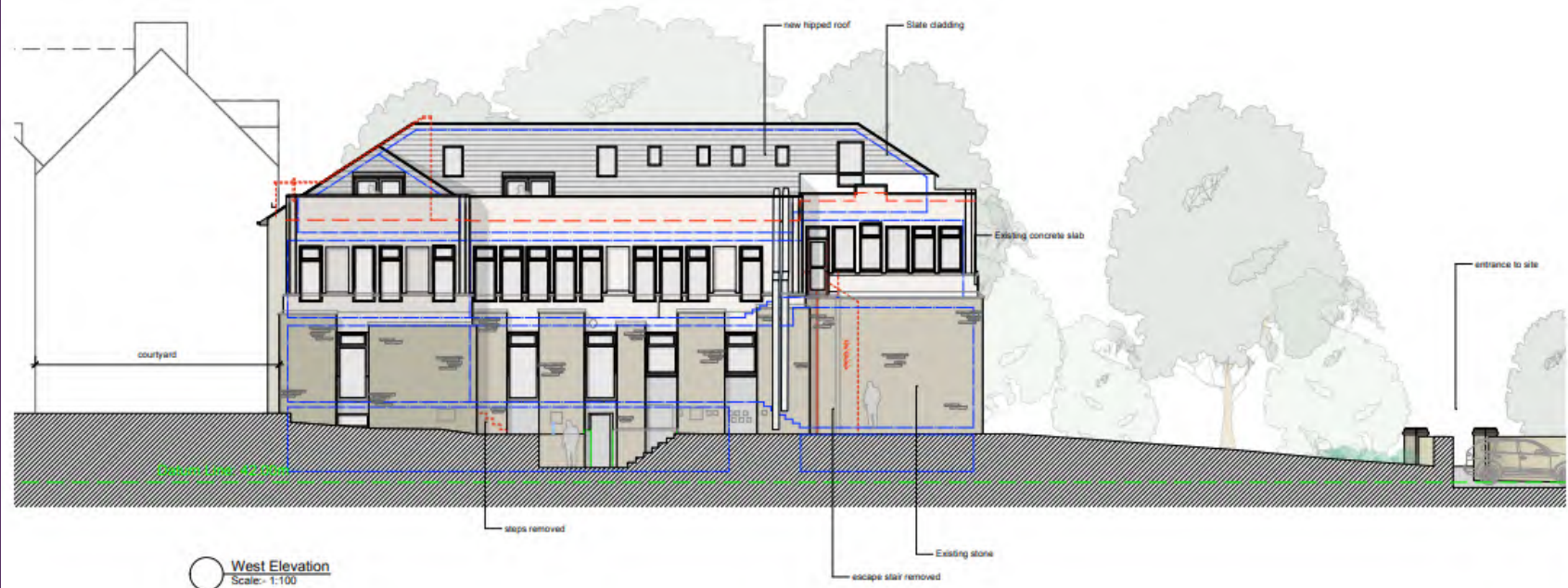
### PLANNING

<b>PEARSCALL HOUSE</b>			
Proposed Site Plan			
Project No:	6119/cb/01	Issue:	Mar-22
Scale:	1:200	Drawn by:	MO
Checked by:	MO	Project No:	6119/cb/01

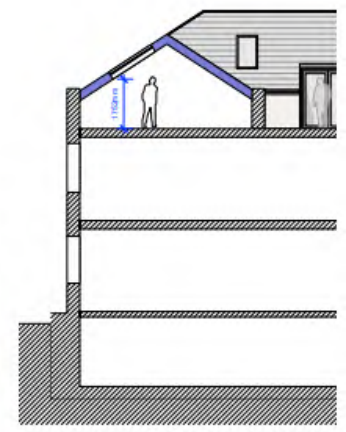
**MASON GILLIBRAND**  
ARCHITECTS  
15 WILLOW HILL, FELL VIEW, CARON, LANCASTER, LA2 6PA



North Elevation  
Scale: 1:100



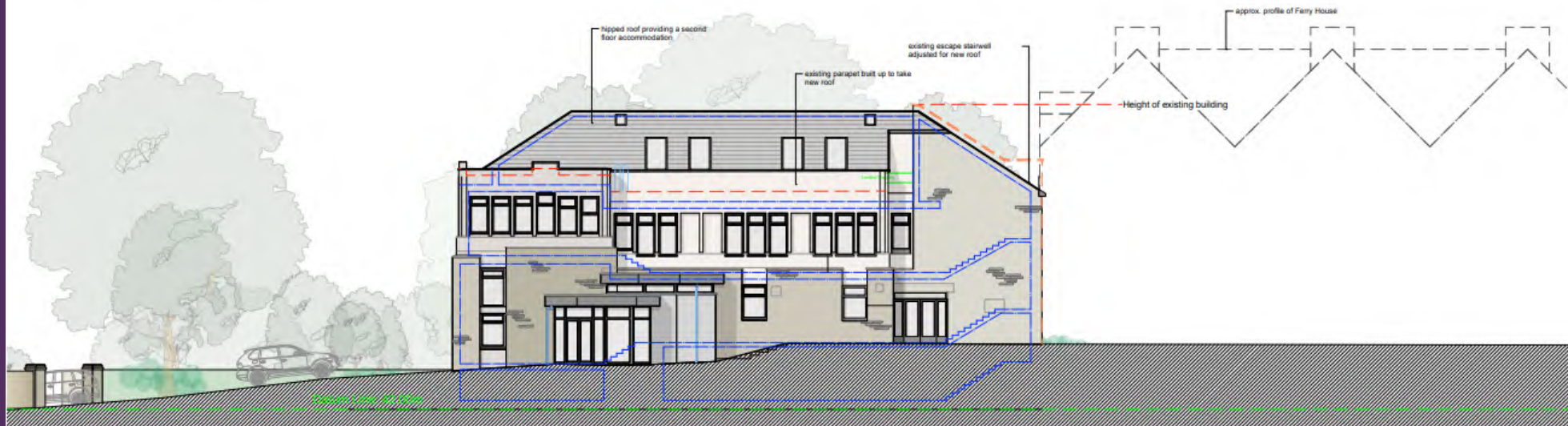
West Elevation  
Scale: 1:100



West Elevation- Section  
Scale: 1:100

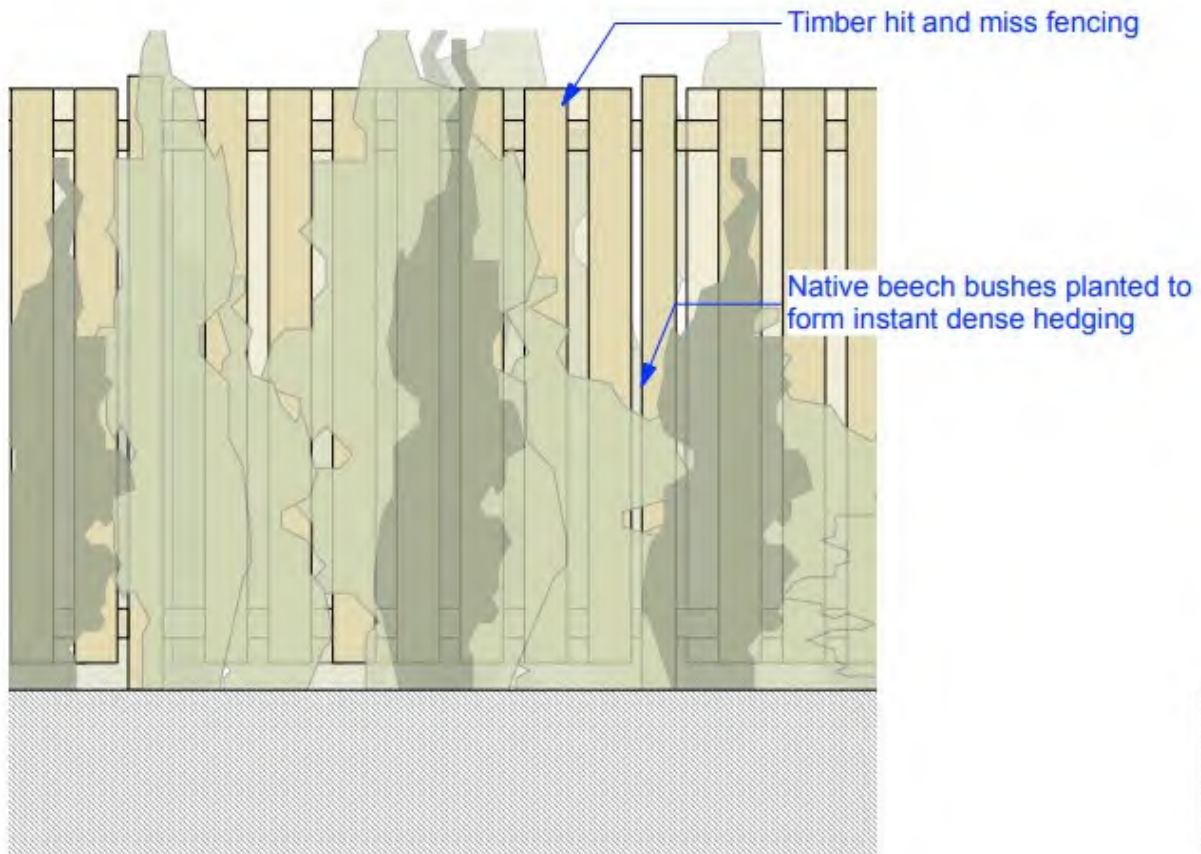


○ South Elevation  
Scale: 1:100

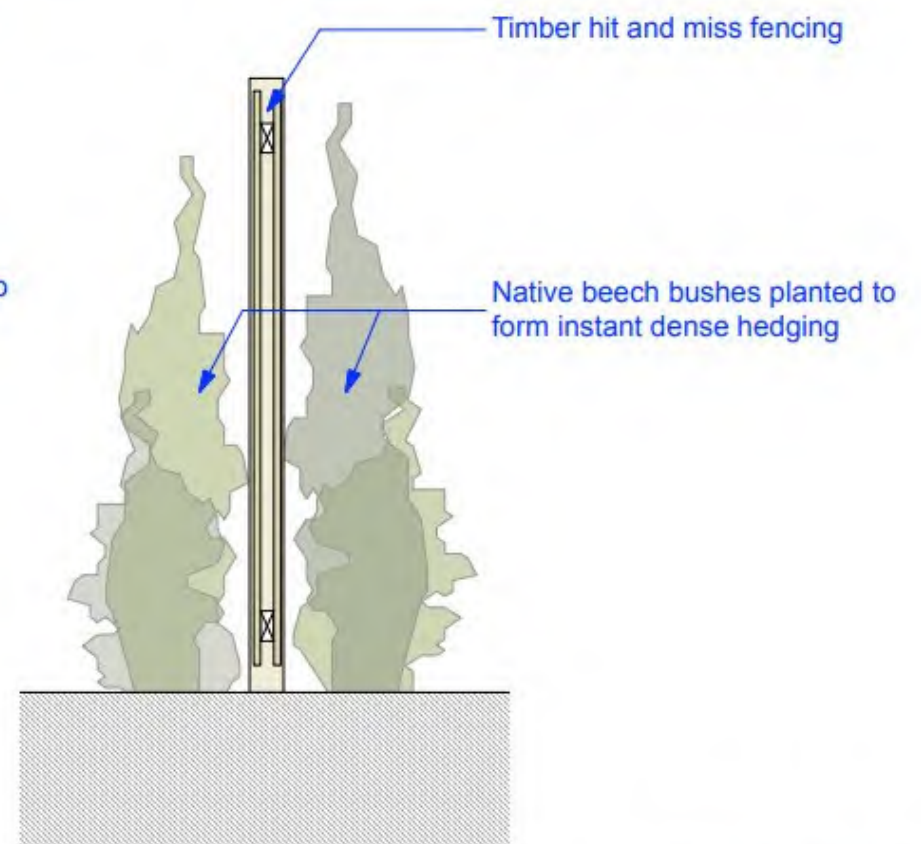


○ East Elevation  
Scale: 1:100





○ **Front Elevation**  
Scale:- 1:20



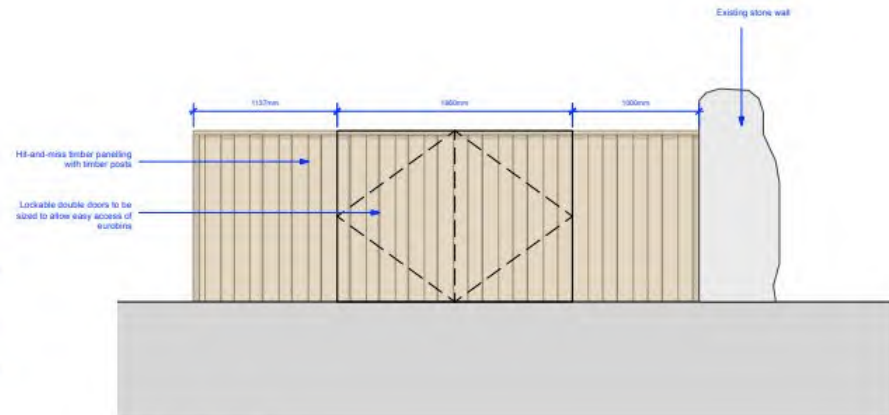
○ **Section**  
Scale:- 1:20

Rev.	Initial	Date	Note
<b>PLANNING</b>			
project <b>PEARSALL HO</b>			
Boundary Fence and Hedge			
drawing title			

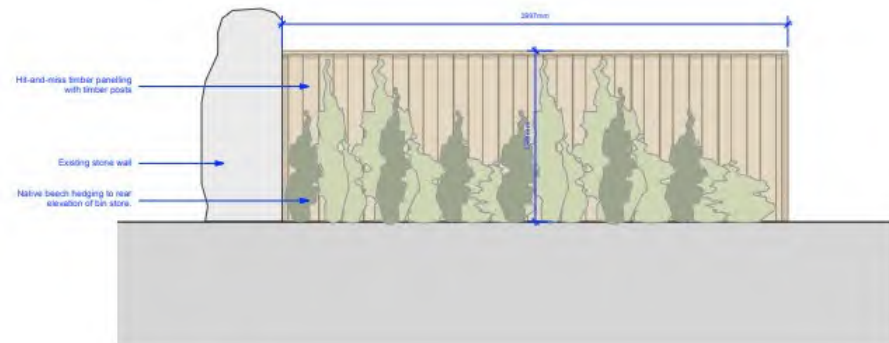


Plan  
Scale: 1:20

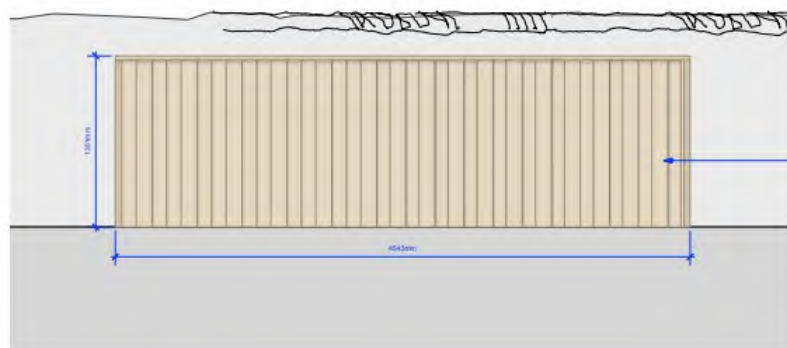
- Lockable double doors to be sized to allow easy access of eurobins
- Refreshed hard standing for internal area of bin store
- Space for 4no. 1100 eurobins



Front Elevation  
Scale: 1:20



Rear Elevation  
Scale: 1:20



- H&M timber paneling with timber posts

Side Elevation  
Scale: 1:20

Rev. Issue Date Note

PLANNING

PEARSALL HOUSE

Proposed  
Bin Store

App No: 6119/crb/03 Date: Mar-22

Scale: 1:20 @ ATL Drawn by: WVG

MASON GILLIBRAND ARCHITECTS

16 WILLOW MILL, (TALL VIEW) CAZON, LANCASTER, LA9 6P  
T: (01524) 771 377 | F: (01524) 771 330 | www.masongillibrand.co.uk

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- 

Rev	001	17/08/22	Issue approved lighting schedule
C	002	28/08/23	Client changes
B	003	01/05/23	Client changes
A	001	22/08/22	Issued for planning

### PLANNING

<b>PEARSCALL HOUSE</b>			
Proposed Site Plan			
Project No:	6119/02/01	Date:	Mar-22
Scale:	1:200	Drawn by:	MO
Checked by:	MO	Project No:	6119/02/01











PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023



PHOTO FROM 2023

Photo provided with letter of representation – taken from Ferry House





Photo provided with letter of representation – taken from Ferry House

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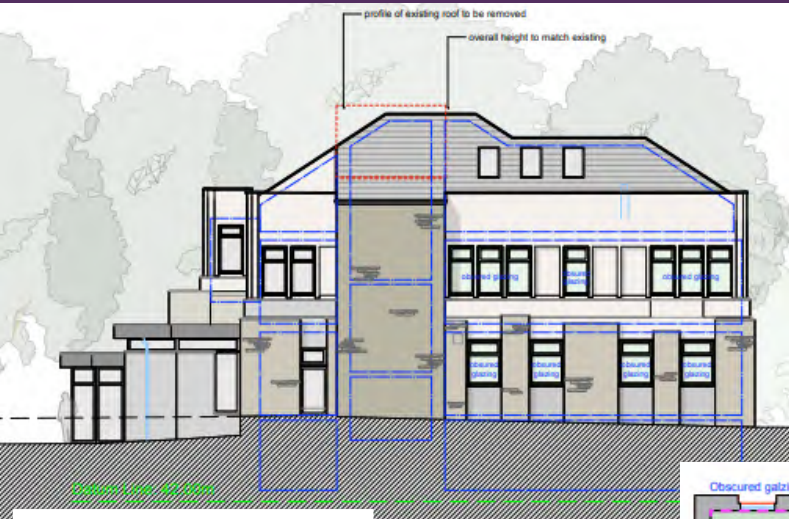


Photo provided with letter of representation – taken from Ferry House

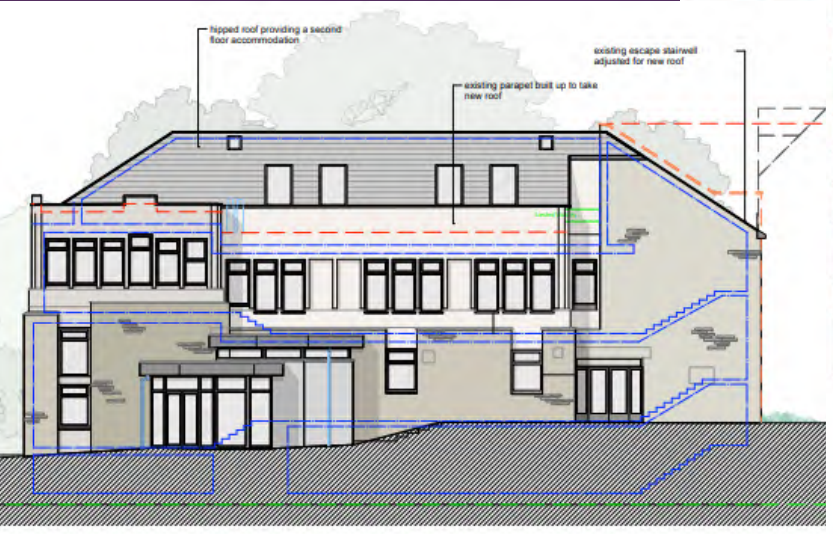




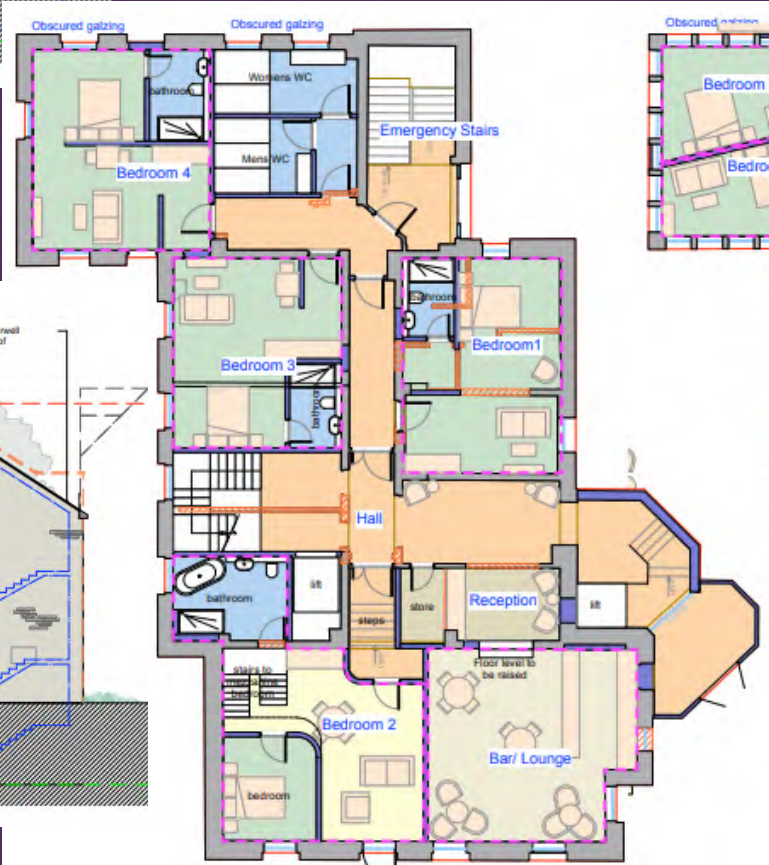
Photo provided with letter of representation – taken from Ferry House



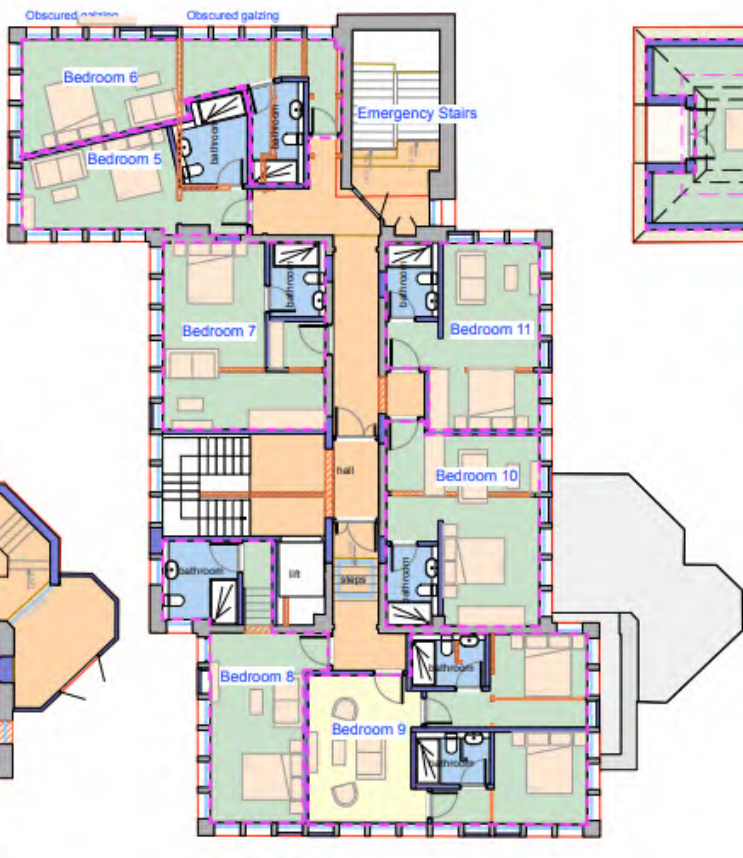
North elevation



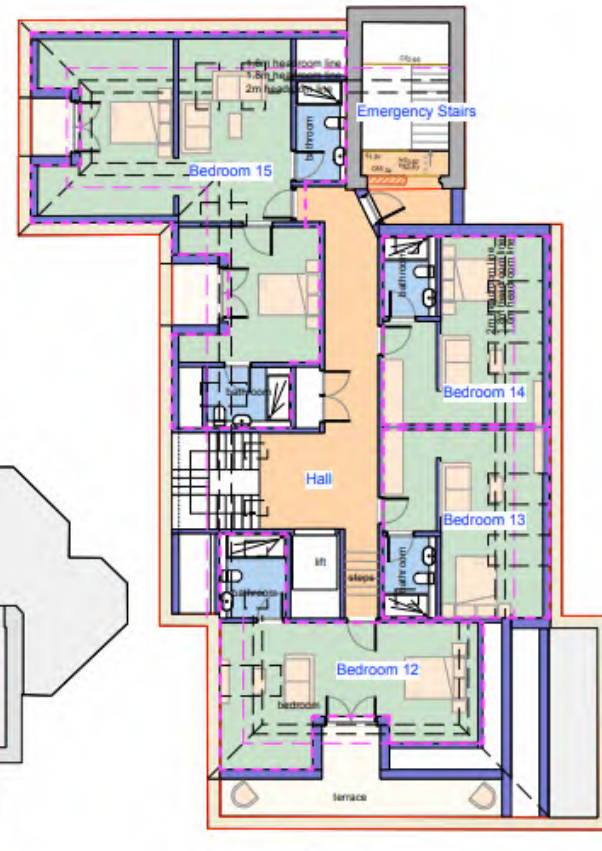
East elevation



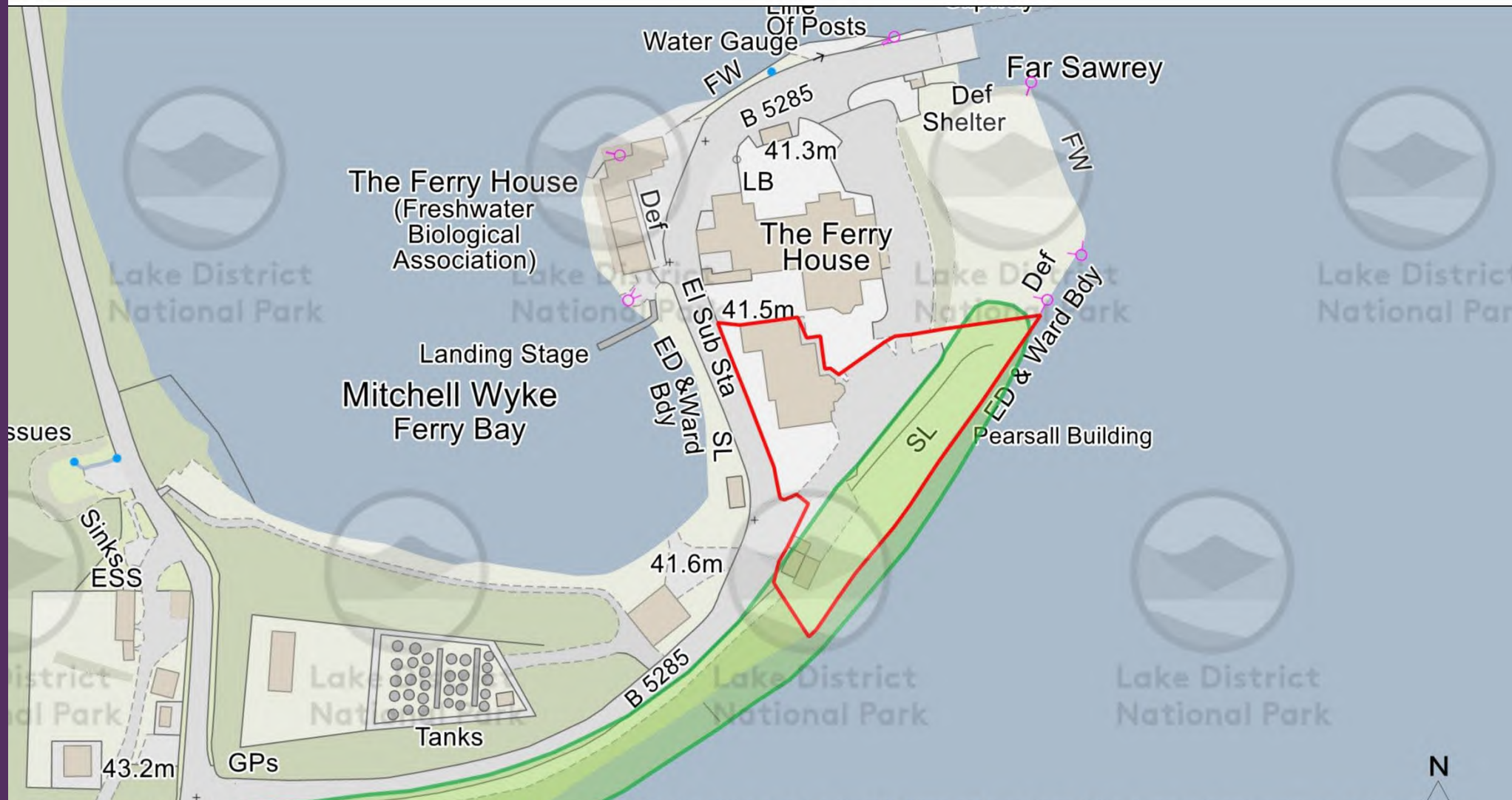
Ground Floor Plan  
Scale: 1:100



First Floor Plan  
Scale: 1:100



Second Floor Plan  
Scale: 1:100



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0	001	17/08/22	Issue approved lighting schedule
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**PLANNING**

**PEARSCALL HOUSE**

Proposed  
Site Plan

drawn by: 6119/cb/01	date: Mar-22	scale: D
scale: 1:200	at: A1L	drawn by: MO

**MASON GILLIBRAND**  
ARCHITECTS  
16 WILLOW HILL, FELL VIEW, CARON, LANCASTER, LA2 6PA