Lake District National Park

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

Application number:	**7/2024/4085**
Application type:	Full Planning application
Applicant:	Mr Glen Race
Location:	Low Wood Cottage, Nether Wasdale, Seascale, CA20 1ET
Grid reference:	312217 504261
Proposal:	Erection of fish pond; summerhouse and car part and change of use of woodland to garden area - all retrospective
Report prepared by:	Chris Kempster, Planner
Report agreed by:	Neil Henderson, Planning Manager
Recommendation:	REFUSE

1 About this report

1.1 The case planner has prepared this report, assessment and recommendation taking into account our policies (known as the Development Plan), written representations we have received, and any other material considerations.

1.2 Material considerations are things that are relevant to our decision making and which we are able to take into account – for example site specific factors, or Government planning policy (the National Planning Policy Framework) and Government planning guidance (the National Planning Practice Guidance).

1.3 The Development Control Committee will determine the application at its meeting having regard to the provisions of the Development Plan, representations we have received, and all other material considerations,

following a verbal and visual summary of the application by the case planner and, where applicable, after hearing any verbal representations made in accordance with our Policy for Public Speaking at Meetings.

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

2 Background and proposals

2.1 I am reporting this application to Committee at the request of a member of the Authority.

2.2 Low Wood Cottage, Nether Wasdale was granted permission (7/2010/4087) as owners' accommodation for the Low Wood Hall hotel. Subsequently permission (7/2019/4063) was granted to change the use to a local occupancy house independent of the hotel. At around the same time the hotel used ceased and permission was granted to convert Low Wood Hall to a single dwelling.

2.3 Condition 7 of the latest implemented permission states, 'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no material external alterations or extensions shall be carried out to the dwellinghouse, nor shall any building, enclosure, domestic fuel oil container, pool or hardstanding be constructed within the curtilage of the dwellinghouse, without application to, and grant of permission by, the Local Planning Authority'.

2.4 The garage, summerhouse and fishpond have all been constructed without planning permission, contrary to the above condition. The garage and summerhouse appear to be outside the curtilage of the dwellinghouse so would not have benefited from householder permitted development rights in any event. The application seeks to regularise those developments and change the use of land to residential garden to include the land occupied by the garage and summerhouse.

3 Representations

3.1 Wasdale Parish Council has commented as follows –

'In 2015, when permission was sought for the original building as accommodation for employees at the Hotel, the Parish Meeting recognised that a local business should be supported. There were conditions imposed in the planners' decision to protect the surrounding woodland and prevent further development of the site "to safeguard the amenities of the area". Trees were however lost during the development of the site.

In 2019, when a change of use was applied for, it was agreed at a Parish Meeting that the loss of woodland area was concerning and that we should ask for permission to be conditional on an appropriate re-planting scheme.

When permission was granted, the aforementioned protections remained in place but there was no re-planting scheme.

The development described in this latest application is obviously in contravention of the original conditions and the amenity of the area has not been safeguarded. Residents noted the size of the structures and the previous loss of ancient woodland, and concerns were raised with the planners.

I circulated the details of this latest application to residents prior to our meeting this month and the application was discussed at the meeting. The applicants were present and were able to argue their case; that they were not responsible for any trees having been removed; and that they had not been aware of the planning restrictions placed on their property. They also indicated a willingness to undertake a re-planting scheme.

There was a range of opinions expressed, both at the meeting and by email from residents who were unable to attend; some don't object on the grounds that the extra buildings can't be seen from the road; others argued that the loss of trees couldn't be ignored and that the size of the buildings was disproportionate; the point was also made that the "fait accompli" aspect of retrospective applications is particularly galling in cases which have been controversial in the past.

There was no general consensus except that since the range of opinions was wide and the situation complex, that the application should be decided by the planning committee'.

3.2 The Local Highway Authority and Lead Local Flood Authority has no objections to the proposed development as they consider that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

3.3 The Woodland Trust objects to the application on the basis of loss and deterioration of Low Wood/Shop and Gill Woods (grid ref: NY 12245 04242), designated as Ancient Semi Natural Woodland on Natural England's Ancient Woodland Inventory (AWI).

Our main concerns in relation to the construction of the new infrastructure include:-

- Direct loss of ancient woodland to facilitate the development.
- Damage to ancient woodland soils, ground flora, fungi and understorey.
- Encroachment on the root systems and rooting environments of trees within the ancient woodland adjacent to the new infrastructure.
- Noise and light pollution arising from the intensification of activity during use'.

For the full response, please see website.

3.4 Our Trees and Woodlands Officer has responded as follows–

'The NPPF states "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran

trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;"

The proposal would/has resulted in the loss or deterioration of irreplaceable habitat and should not be allowed. There is no 'wholly' exceptional reason for the development and there is no suitable compensation strategy that could mitigate against the foreseeable/actual harm that has been caused. In addition to this, if the element of the change of use were to be allowed, it would actually be removing legal protection from the woodland as the Forestry Act protects trees in woodlands but cannot protect trees in gardens.

In conclusion, I object to the proposals and recommend refusal'.

3.5 We have also received three letters of support and two letters of objection. The matters raised may be summarised as follows:

Support

- The pond, summer house and car port appear in good proportion and in sympathy to the main house and gardens, and the materials used seem sympathetic and tasteful.
- The structures are in keeping with the character of the local area.
- The buildings cause no harm to the amenities of neighbouring properties, regarding privacy or views.
- The whole site has been massively improved over the last couple of years.

Object

- Mature trees have been removed.
- The current owners were told during construction that permission was required and the buildings should be removed to ensure planning rules are followed and enforced.
- The positioning of the summer house is elevated compared to our property and looks directly into our conservatory, kitchen, dining room, living room and bedroom, causing harm to our amenity.
- The car port is a very large building and completely out of keeping with the area and original proposed development which was supposed to be a small house in woodland to service the nearby hotel.
- The buildings and development have destroyed the ancient oak woodland and created a gap in the natural boundary of the village.
- The development has impacted on local wildlife, including bats and owls.

Development plan policies and other relevant guidance

4.1 The relevant Development Plan comprises:

- The Lake District National Park Local Plan 2020-2035

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

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

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

4.4 There are no actions in the Wasdale Parish Plan 2005 which are directly relevant to this application.

5 Main issues and assessment

5.1 The main issues in this assessment are:

- Principle
- Character and appearance of the area
- Impact on the amenity of neighbouring properties
- Impact of development within Ancient and Semi-natural Woodland

Principle

5.2 The construction of ancillary outbuildings and structures within the garden of a dwellinghouse complies with Local Plan Policy 02 and is acceptable in principle. The fishpond is within the garden of Low Wood Cottage and is therefore acceptable in principle.

5.3 The summerhouse and garage are located outside of the area previously approved for conversion to a dwelling. They are however clearly used in association with the existing dwellinghouse and the application seeks a change of use to formalise the use of the land on which the buildings sit to residential use. I consider that development consisting of an extension of a residential curtilage and ancillary domestic buildings within that extended curtilage, is not, in principle, contrary to Local Plan Policy 02.

5.4 There are in principle considerations with respect to development within an area of ancient and semi-natural woodland which are considered under the relevant section.

Character and appearance of the local area

5.5 The garage, summerhouse and fishpond are not visible from public views from the road to the south west.

5.6 The garage is constructed in untreated timber under a grey slate tiled roof. The garage is part open sided and used as a car port for two vehicles, and has an enclosed element used for domestic storage. The summerhouse is

constructed of timber walls, stained green, and an anthracite tiled roof. Both structures are of a typical design of domestic ancillary outbuildings. The fishpond is modest in size and is located close to the dwelling. This structure is also typical development within the garden of a dwellinghouse.

5.7 I am satisfied that the development has not resulted in an unacceptable visual impact on the public domain and therefore complies with Local Plan Policies 05 and 06.

Impact on the amenity on neighbouring properties

5.8 The nearest neighbouring properties are the dwellings known as Ragdhl House, located approximately 110 metres to the north west; and Low Wood Hall (the former hotel) approximately 65 metres to the south east.

5.9 Due to the woodland and the relief of the land, the structures are not visible from Low Wood Hall and therefore cause no harm to the amenity of this dwelling.

5.10 A letter of representation contends that the garage is visible from Ragdhl and causes overlooking towards this neighbouring property. While the garage might be visible, I consider that, given the separation distance of 110 metres, and the screening effect of mature trees within the woodland, neither the garage or the summerhouse has resulted in a harmful level of overlooking towards Ragdhl. Nor are they overbearing. I consider that the development of the garage has not significantly increased the impact on the occupants of Ragdhl as a result of activity given that it is located next to an existing driveway and the garage is used for ancillary purposes in association with Low Wood Cottage.

Impact on Ancient Semi Natural Woodland

5.11 Low Wood Cottage, garden and the garage, summerhouse and fishpond are all located within Low Wood Ancient Semi Natural Woodland. There are strong national and local policies with respect to harm to ancient and semi-natural woodland. National policy is extremely restrictive and prescriptive. Paragraph 193 of the NPPF states that,

‘development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists’.

5.12 The implementation guidance to Local Plan Policy 03 states

“Woodlands are recognised as one of the Lake District's most valuable scenic and wildlife assets. Development which involves or would lead to the clearance of or damage to semi-natural or amenity woodland or important trees will not normally be permitted”

5.13 I cannot disagree with the views of the Woodland Trust, our Trees and Woodlands Officer and others, that the works and development that have

been carried out has caused harm to the ASNW through direct loss of woodland, damage to ancient woodland soils and understorey, encroachment on rooting systems and the impact of noise disturbance and light pollution arising from the use of the land for domestic purposes and the consequent intensification of activity.

5.14 In mitigation, the erection of Low Wood Cottage, originally permitted as owners' accommodation and now an independent dwelling, and previous development associated with the hotel including the gravelled driveway has adversely affected the Ancient Semi Natural Woodland. Additionally, evidence has been provided that the land on which the summerhouse and garage stood had previously been adversely affected by works which were not undertaken by the current owner/applicant. The summerhouse is located on an area which had previously covered by astroturf laid by a previous owner. The astroturf was taken up and soil laid on top which was then lawned. The summerhouse was erected on an area of hardstanding on the end of this area.

5.15 The garage is located on an area of built up hardcore which is sited next to the existing driveway/track to the former hotel. The garage footprint is approximately the size of this built up area, with mature trees to the rear. The front of the garage is next to the existing track which has had new gravel laid recently.

5.16 The applicant has also provided photographs from before the development showing the trees within the areas where the garage and summerhouse are located. It appears that no trees were felled to construct either the garage and summerhouse.

5.17 In short the woodland in the area where the summerhouse and garage have been erected was not in pristine condition when the developments took place. Nevertheless, government guidance on taking decisions regarding ancient woodland states

"Where a proposal involves the loss or deterioration of ancient woodland or ancient or veteran trees you should not take account of the existing condition of the ancient woodland or ancient or veteran tree when you assess the merits of the development proposal. Its existing condition is not a reason to give permission for development. A woodland or tree in poor condition can be improved with good management."

5.18 I have set out the policy context and the impact of the development above. Policy is clearly against the proposed development, but we need to consider if there are there any reasons why we should set aside policy.

5.19 I have a degree of sympathy with the applicant for a number of reasons. Firstly, I am conscious that the woodland was part of the former hotel grounds and consequently would have been affected by disturbance as a result. Secondly, I think it reasonable to say that had current guidance existed at the time of the original application for detached owners' accommodation within the ASNW, then permission would not have been granted. The erection of this building has undoubtedly had an adverse

impact on the woodland. Thirdly, it is abundantly clear that unauthorised works took place prior to him taking ownership of the site which would have caused harm to the woodland, and he was not responsible for those works,.

5.20 Even taking all that into account I cannot come to any conclusion other than that the development if allowed would compound and consolidate the harm to the character of the woodland which had already taken place, and that the extension of the garden would increase disturbance to the flora and fauna of the woodland to the detriment of its special qualities. Ancient and semi-natural woodland is irreplaceable and scarce. Once it is gone it is gone forever hence the strong policy presumption against permitting development which might adversely affect such woodland.

5.21 The applicant also claims that he assumed the erection of the various buildings and structures was permitted development. While I have no reason to doubt his claim, it would set an unhealthy precedent to apply a different standard to those who have carried out unauthorised development to those who have applied in advance. It is the responsibility of anyone carrying out development to ensure they have the necessary permissions. In the case in hand, the 2019 planning permission made abundantly clear that any permitted development rights that might apply to householder development had been withdrawn so the information was at hand.

6 Conclusion

6.1 As an irreplaceable habitat, Ancient and Semi-Natural Woodland enjoys strong protection from development which might diminish its character or condition.

6.2 The development that has taken place has had an adverse impact on the woodland. Granting planning permission retrospectively for the built development and the change of use to garden would consolidate and compound the harm that has already occurred. There are no public benefits or mitigating circumstances which would indicate a decision should be taken contrary to policy.

RECOMMENDATION: REFUSE

Reason

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

The development that has taken place, and for which permission is sought, has had an adverse impact on the ASNW in which it is sited by virtue of the loss of woodland; damage to woodland soils; encroachment on root systems and rooting environments; and noise and disturbance arising from the use for purposes ancillary to residential use. Granting planning

permission retrospectively for the built development and the change of use to garden would consolidate and compound the harm that has already occurred. There are no public benefits or mitigating circumstances which would indicate a decision should be taken contrary to policy.

Background papers

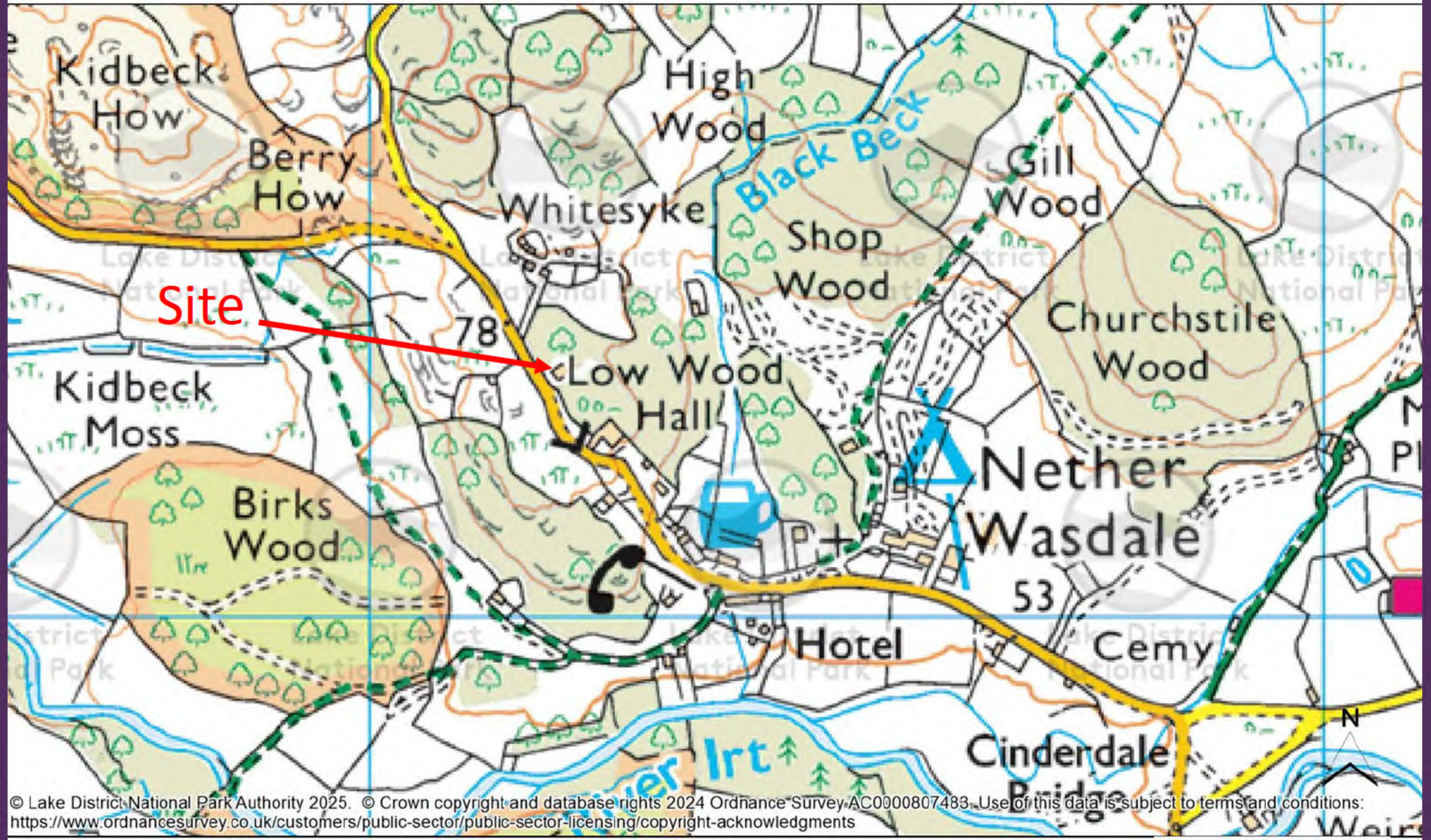
Background papers are available for inspection on the planning application file unless otherwise specified on that file as confidential by reasons of financial/personal circumstances in accordance with the Local Government (Access to Information) Act 1985.

7/2024/4085

Low Wood Cottage, Nether Wasdale, Seascale, CA20 1ET

Erection of fish pond; summerhouse and car port and change of use of woodland to garden area - all retrospective

Location Plan 7/2024/4085



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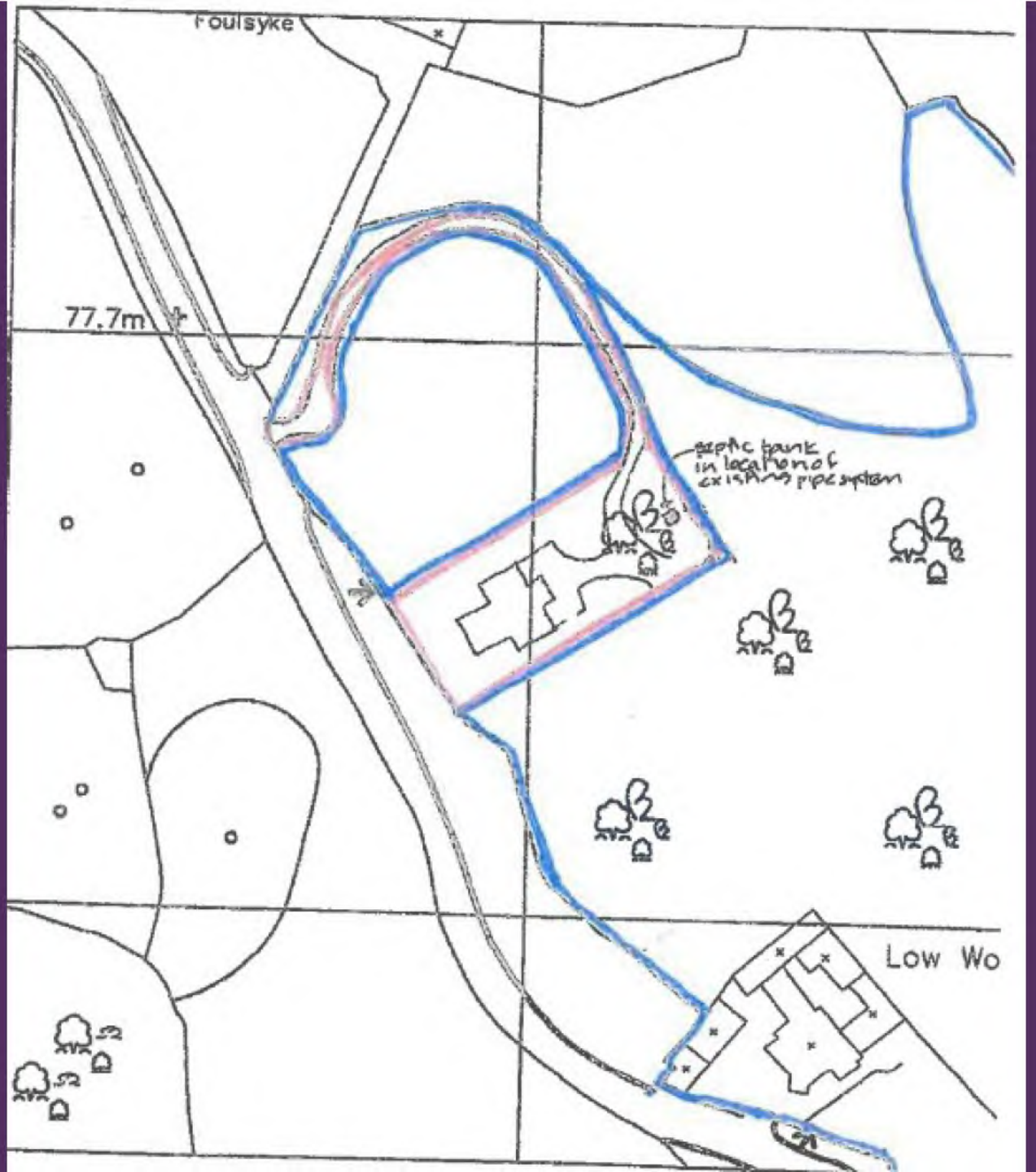
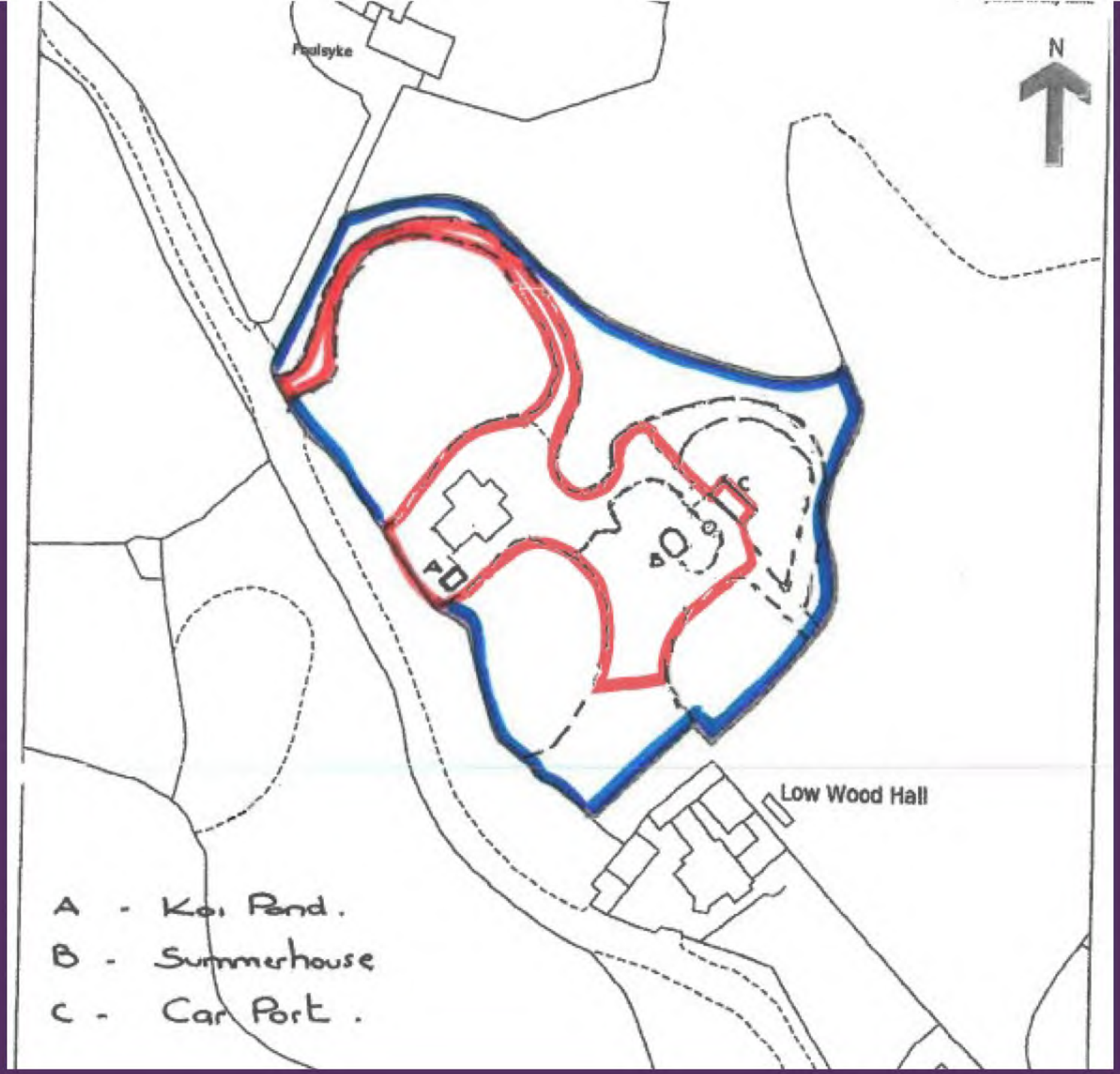
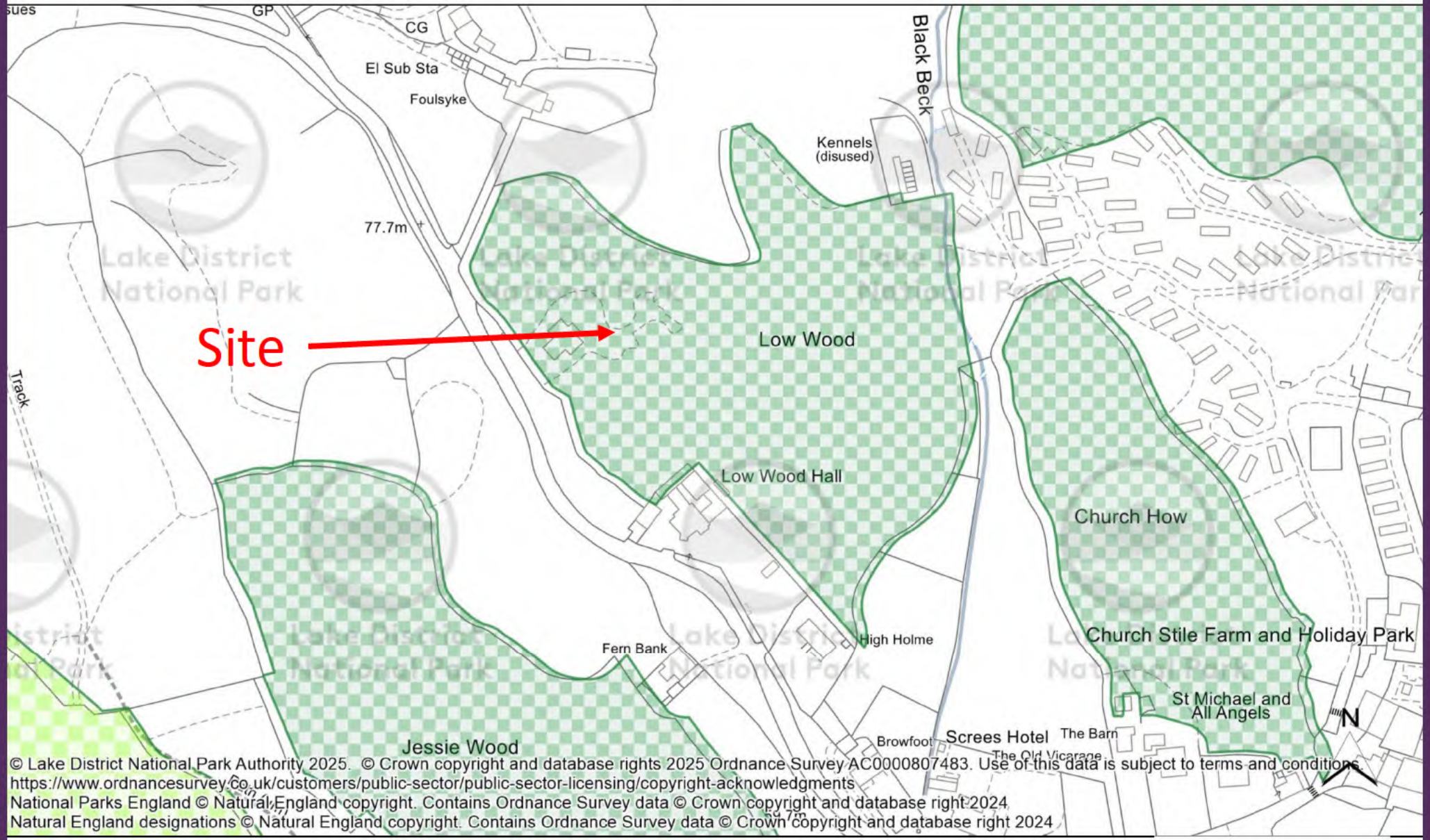
Existing Site Plan



Proposed Site Plan



Low Wood Ancient Semi Natural Woodland



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Garage

Area next to existing driveway
where the garage is located

Summerhouse

Astroturf before summerhouse and lawn

Fish pond