



## Appeal Decision

Site visit made on 10 March 2026

by **Sarah Manchester BSc MSc PhD MEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> May 2026

**Appeal Ref: 6003053**

**Scalegill Hall Farm, Scalegill Road, Moor Row, Cumbria CA24 3JY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for full and outline planning permission.
- The appeal is made by Niels Thompsen against Cumberland Council.
- The application Ref is 4/25/2120/0F1.
- The development proposed is hybrid planning application for the redevelopment of Scalegill Hall Farm including full planning permission for the demolition of redundant farm buildings, the refurbishment of Scalegill Hall, conversion of a barn to two dwellings and outline planning permission for residential development with all matters reserved except access.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

1. As the proposal relates to a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
2. The appeal relates to the Council's failure to determine the planning application within the prescribed time period. In its evidence to the appeal, the Council states that had it been in a position to determine it, planning permission would have been refused on grounds relating to harm to heritage assets, the safe operation of the highway and protected species.
3. The Council also failed to determine a related listed building consent application (ref 4/25/2121/OL1) for the development, but there is no related appeal. However, if this appeal had been successful, the appellant would still have needed to secure listed building consent for works to demolish any part of the listed building or to undertake works which would affect its special historic or architectural interest.

### Main Issues

4. Therefore, I consider the main issues in the appeal to be:
  - i) Whether the proposal would preserve a Grade II listed building, "Scalegill Hall and Adjoining Barn" (ref: 1086715) (the LB), and any of the features of special architectural or historic interest that it possesses;
  - ii) Whether the proposed enabling development is justified;
  - iii) Whether the proposal would provide a safe and satisfactory access and avoid harm to the highway network; and
  - iv) The effect of the proposal on protected species.

## Reasons

### *Heritage Assets*

5. The LB is a large 2-storey house, likely dating from the early 17<sup>th</sup> century. It is constructed in rendered rubble with a graduated slate roof with stone copings and kneelers and rendered stepped chimneys. Its front elevation features a plank door in decorative architrave with a moulded oval frame above, the latter probably featuring a datestone originally. Windows are currently boarded but were mullioned and with sashes. Despite its poor state of repair, the LB also retains some notable features internally including staircase and arched fireplace in what was the kitchen. The adjoining single storey barn is perpendicular to the dwelling and constructed in coursed rubble with quoins and a 20<sup>th</sup> century concrete tile roof. Its inward facing elevation features a central wagon door, vent slits, smaller doorway and window.
6. The ruined outbuildings referred to in the listing description lie roughly east and south east of the LB. Thought to date from around 1615, they apparently only fell into disrepair in the second half of the 20<sup>th</sup> century. They have lost their roofs and the walls are overgrown but historic fabric, openings and plan form remain. There is also a substantial 2-storey bank barn to the east of the LB. This is likely from the 19<sup>th</sup> century and, as an increasingly rare and complete example of vernacular architecture, it is a non-designated heritage asset. Moreover, by virtue of physical relationship, ownership and function ancillary to Scalegill Hall, both historically and at the date of listing, the ruined outbuildings and the bank barn are curtilage listed by association with the LB.
7. There is a modern blockwork and metal sheet roof structure attached to the rear of the adjoining barn. A late 19<sup>th</sup> century Dutch barn was removed from the north wall of the bank barn, possibly after the LB was listed in 1984. Notwithstanding these changes and the general neglect, the arrangement of the buildings and spaces remains substantially as it was historically. The historic building group remains legible as an inward-facing Hall and adjoining barn, with ancillary outbuildings and bank barn arranged around and substantially enclosing a yard. Insofar as it relates to the appeal, I find that the architectural features, historic fabric and the layout and juxtaposition of the buildings contribute to the special interest of the LB as an isolated early vernacular country house with attached barn and former farmstead.
8. There is a further Grade II listed building, "Garden Walls to South and West of Scalegill Hall, A595" (ref 1137289) in the appeal site. This is likely to date from the 19<sup>th</sup> century and it is a substantial feature some 8 to 10 feet tall and constructed from snecked rubble with flat coping and corner pilasters on battered plinth.
9. As part of the proposal, the Hall would be repaired and refurbished for use as a residential dwelling. The adjoining barn would be converted to provide garage space, workshop, store and gym room. The modern lean-to agricultural building to its rear would be removed. The bank to the bank barn would be removed and that barn would be converted into semi-detached properties. At least some if not all of the ruined outbuildings would be demolished. There would be a significant increase in hardstanding in the curtilage of the LB including the yard, walled garden and to the south of the bank barn. There would also be subdivision of the curtilage with boundary treatments to each of the proposed 3 residential plots.
10. The Structural Appraisal (Blackett-Ord, October 2022) provides a description of the LB and curtilage listed traditional barns and outbuildings. It identifies structural

defects and outlines necessary repairs. Overall, it reports that the dwelling and barns are in reasonable structural condition but require localised repairs including to defective masonry, first floor structures, vegetation removal and above ground drainage. Following repair, the barns are suitable to be converted to domestic use.

11. While the Hall is in urgent need of renovation, there does not appear to have been a comprehensive heritage impact assessment to inform a sensitive scheme of repair and refurbishment. Without this, and in the absence of a considered justification for proposed alterations including the choice of materials, removal of the original winder stair and alterations to openings, it is not possible to fully assess the effect of the proposal on the special interest of the LB. Even so, the proposal would result in a significant visual change and loss of historic fabric.
12. The demolition of the derelict outbuildings, the extensive hardstanding and the subdivision of the curtilage to form separate residential plots would significantly erode the historic layout and legibility of the historic building group. The removal of the bank to the bank barn and the creation of full height glazing would erode the physical evidence and legibility of the vernacular bank barn. New window openings, extensive glazing, and the separate residential curtilages with domestic parking and paraphernalia would domesticate and erode the architectural and historic interest of the bank barn. The harm to the curtilage listed buildings and the curtilage would detract from the significance of the designated heritage asset.
13. Although not in the curtilage of the LB, the outline residential development would be in its setting and close to the bank barn. The contemporary agricultural buildings that would be lost are of no architectural merit but they are typical rural buildings that reinforce the impression of Scalegill Hall as a farmhouse and farmstead. As matters of appearance and scale would be reserved for future consideration, it is not possible to assess the likely effect of the outline development on the setting and thereby the significance of the designated heritage asset. However, the large number of new houses and associated residential activity would likely make a negative contribution to the rural agricultural setting of the LB.
14. Given the above, I find that the proposal would fail to preserve the special interest of the listed building. This harm carries considerable importance and weight in the planning balance of the appeal.
15. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. It further advises that significance can be harmed or lost through the alteration or destruction of the asset and that any such harm requires clear and convincing justification. In this case, I have been provided with little justification for the harmful alteration and the partial loss of the heritage asset. There is little evidence that alternative solutions that would result in less harm to the LB were considered and reasonably discounted. Given the uncertainties, I find the harm to be at the higher end of less than substantial and thus of considerable importance and weight.
16. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the Framework advises that harm should be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimal viable use.

17. A scheme of sensitive repair and refurbishment of the listed building and its return to a viable use would be a significant heritage benefit. However, the proposal would not demonstrably be a sensitive restoration of Scalegill Hall and its curtilage. As discussed below, the new dwellings would not be economically viable enabling development. The contribution to housing supply would however be a modest public benefit, with associated modest economic benefits during construction and from support for the local economy. There is little certainty that the LB could be repaired and brought back into use and little evidence that the proposal would be the optimum viable use of the LB. Consequently, the benefits are not demonstrably sufficient to outweigh the harm that I have identified.
18. Given the above, I conclude that on balance the proposal would fail to preserve the special historic interest of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 212 of the Framework and conflict with policies BE1 and BE2 of Copeland Local Plan 2021-2039 Adopted November 2024 (the LP). These policies require, among other things, that proposals preserve and enhance designated heritage assets, informed by a heritage impact assessment, and putting vacant historic buildings into viable uses consistent with their conservation. As a result, the proposal would conflict with the development plan.

#### *Enabling development*

19. As noted, the historic bank barn would be converted into dwellings and there would be a number of new build dwellings in place of the modern agricultural buildings. The new dwellings are in outline only and details except access would be the subject of subsequent reserved matters planning applications. However, the new dwellings are proposed to enable the restoration of the listed building.
20. The appeal site lies roughly 300m west of the settlement boundary of Moor Row. This is identified by LP Policy DS1 as a sustainable rural village such as provide limited services but could support a limited amount of growth to maintain communities. Of relevance to the appeal site, LP Policy DS2 seeks to restrict housing outside of settlement boundaries except in certain circumstances.
21. The appeal site is bordered to the south by Scalegill Road and to the west by the A595, but it is otherwise surrounded by undeveloped agricultural land. There has been some recent residential development on intervening land, but the appeal site remains widely separated from the settlement and built development by agricultural land and Needless Beck. Irrespective of the footway along Scalegill Road, the site is not well related to and it does not directly adjoin the settlement.
22. The Council advises that it can demonstrate a 5 year housing land supply in the former Copeland area and the housing delivery test is met. The proposal would not deliver affordable housing to meet local needs. The outline application relates to the construction of new dwellings and not the conversion of rural buildings to residential use. It would not be replacement dwellings in the open countryside. As such, the outline proposal conflicts with the aims of the Council's spatial strategy in relation to focussing development in accordance with the settlement hierarchy.
23. That being said, the Framework advises local planning authorities to assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

24. While the development plan is silent in relation to enabling development, both parties refer to Historic England (HE) guidance in this regard. HE sets out a framework including establishing the level of conservation required to sustain the heritage asset, assessing alternative solutions, assessing the costs of repairs and maintenance, establishing the market value of the asset in its before and after condition, detailed scheme design, appraise the financial contribution the development will make to the conservation of the asset and create a delivery plan to demonstrate how the heritage benefits will be secured in a timely manner.
25. A heritage statement has been submitted, but it does not constitute a proportionate heritage impact assessment prepared by a suitably qualified and experienced professional. There is little evidence that alternative solutions have been considered and reasonably discounted. The Budget Cost Plan (Cavendish Bloor Ltd, November 2022) includes listed building costs for building works, re-roofing, scaffolding, main contractor preliminaries and contingencies. However, it does not include all of the costs that would be associated with securing a viable residential use of Scalegill Hall or maintaining it in the longer term. I have not been provided with an estimate of the market value of the listed building or conservation deficit.
26. The Appraisal of Financial Viability (Carigiet Cowan, October 2023) specifically excludes the cost of renovating Scalegill Hall but does include the conversion of the bank barn. Based on 20 new build dwellings and 3 units within the converted barn, it concludes that the profit against low sales value would deliver a negative return, somewhere of the order of -8% and below the rate of return necessary to facilitate development. A March 2024 update (Richard P Taylor) notes that there has been a significant uplift in costs since the appraisal was carried out but sales values have not risen markedly. It also notes the reduction in the number of units of proposed in the bank barn, which would affect viability. The update confirms that the overall scheme is not reasonably expected to deliver a positive developers profit.
27. Therefore, the proposed housing development would not be demonstrably financially viable so as to secure the future conservation of the listed building. I understand that the proposal has been submitted in hybrid form specifically in order to ensure that the listed building is fully renovated prior to the completion of the adjacent residential estate. However, there is little evidence that this would be the case, taking into account financial viability and in the absence of a robust plan or mechanism to demonstrate that the heritage benefits could be delivered.
28. Consequently, I find that the outline housing development would not secure the conservation of the listed building and thus it would not be enabling development. With reference to the Framework, the proposal does not provide a justification for housing development that would conflict with the development plan.

#### *Access and highways*

29. A new highway access would be created from Scalegill Road to serve both the LB dwellings and the new residential estate. According to the Design and Access statement, this new access would have maximum visibility in both directions and be bound by a new stone wall along the highway boundary. However, while the access is illustrated on the proposed site layout plans, there is no scale or dimensions on the plans and visibility splays are not indicated.
30. The Local Highway Authority reviewed the proposal and requested a plan to show visibility splays in both directions to the nearside curb measured from 2.4m down

the centre of the proposed access road. It also advised that the plan should show how connectivity to the existing footway network could be achieved.

31. I understand that the appellant considers that the access would be safe, functional, permeable and inclusive, with regard to access to Moor Row and bus stops via a surfaced and lit footway adjacent to the roadside. However, no plans appear to have been submitted with the appeal to demonstrate that acceptable visibility splays could be achieved. Moreover, as there is no existing footway alongside Scalegill Hall on Scalegill Road, future occupiers would need to cross over to use the footway on the opposite side of the road. Based on a single access to the highway, pedestrians would be attempting to cross at the point that vehicles were turning. The proposal does not demonstrate that it would minimise the scope for conflicts between pedestrians, cyclists and vehicles.
32. The highway access and internal roads to serve the LB and the converted barn would be phase 1 development. Access is also applied for as part of the phase 2 outline planning application. However, the phasing and demolition plans appear to suggest that the internal access roads could not be constructed to the phase 1 area until at least one agricultural building the phase 2 area had been demolished. Irrespective, and while details of materials are provided, the plans are not adequately scaled or detailed in relation to the dimensions or construction of the proposed access and the internal roads. The proposal fails to demonstrate that the access and internal roads would be designed to a suitable standard.
33. I also note that National Highways advise the application should not be approved without a GG 104 assessment to identify, assess and mitigate safety risks. This appears to be primarily on the basis that the existing boundary wall functions as a barrier to vehicle incursion into the appeal site but is a significant physical hazard. No such assessment appears to have been carried out and the evidence with the appeal does not specifically address the concerns of National Highways.
34. Therefore, I conclude that the proposal would not demonstrably achieve a safe and satisfactory access for all users or avoid harm to the highway network. As such, it would conflict with the aims of LP policy CO2.

#### *Protected species and biodiversity*

35. The planning application is supported by a Preliminary Ecological Assessment (Nevis Environmental Ltd, 2020) and a Preliminary Ecological Assessment and Preliminary Roost Assessment (Esk Ecology, 2024). Both confirm that there are habitats on site, including buildings and vegetation, suitable to support protected and priority species.
36. Scalegill Hall and the traditional barns are apparently suitable to support barn owls, which receive a high level of protection under schedule 1 of the Wildlife and Countryside Act 1981. Accordingly, the ecological consultant recommends further survey in order to understand the likely impact of the proposal on this species and inform the need for mitigation. No such survey has been provided.
37. These same buildings are also highly suitable to support roosting bats, including crevice dwelling species and maternity roosts, in which case the proposal has the potential to result in the killing or injuring of bats and the loss of bat roosts. This would be a breach of the legislative protection afforded to bats, unless works were carried out under European Protected Species Licence. However, in the absence of

the recommended activity surveys during the main bat active season, the proposal fails to establish the presence or absence of bats and the extent to which they may be affected.

38. Government guidance is clear in that planning authorities must consider the impacts of development on protected and priority species, and the scope to avoid or mitigate any impacts when considering planning applications. Applications should not be decided upon until all the necessary surveys have been received.
39. Planning conditions could be imposed to secure precautionary working methods during construction to avoid impacts on common species of breeding bird, reptiles, badgers, brown hare and hedgehog. However, it would not be appropriate to impose planning conditions asking for surveys because the full impact of the proposal on protected species, and the likelihood of a licence being issued in the case of bats, needs to be considered before planning permission is granted.
40. Therefore, in the absence of evidence to the contrary, I conclude that the proposal would harm protected species and their habitat. Accordingly, it would conflict with the aims of LP Policy N1 in relation to conserving and enhancing biodiversity.

### **Other Considerations**

41. The appeal statement refers to the Core Strategy and Development Management Policies DPD (December 2013). This has been superseded by the local plan adopted in November 2024, which was before the appeal was made. The adopted local plan is the development plan for this appeal.
42. The policies in the adopted local plan are not out-of-date and the Council can demonstrate a 5YHLS. The presumption in favour of sustainable development in the Framework is not engaged. Even so, the proposal would contribute to the Government's aim of significantly boosting the supply of homes. There would be short term economic benefits during construction. Future occupiers would contribute to the local economy and the local community. Collectively, these matters carry modest weight in favour of the scheme.
43. Biodiversity Net Gain (BNG) is a statutory requirement. With some exceptions, every grant of planning permission is deemed to have been granted subject to a pre-commencement condition (the biodiversity gain condition) that the biodiversity gain objective of delivering at least a 10% increase in biodiversity value is met.
44. I note the Biodiversity Net Gain report by Waterway Drainage Engineering, although neither the author of the report nor their credentials are specified. This concludes that the post development habitats would deliver BNG of around 19%. This would comprise new native tree and shrub planting, hedgerow along Scalegill Road and 1ha of lowland dry acid grassland to the north.
45. It is not clear how the proposed hedgerow would relate to visibility splays or boundary treatments referred to elsewhere in the evidence. Moreover, as the ecology reports refer only to improved and neutral grassland, it is not clear that the creation of acid grassland would be either feasible or desirable in this location. However, as I am dismissing the appeal, it is not necessary for me to consider whether or not the biodiversity gain condition is capable of being successfully discharged. Nevertheless, the delivery of BNG would be a benefit which, on the basis of the evidence, carries limited positive weight.

46. The Framework definition of previously developed land specifically excludes land that is or was last occupied by agricultural buildings. Consequently, the policies in the Framework relating to the redevelopment of brownfield and previously developed land do not weigh in support of the proposed housing.

**Conclusion**

47. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.

48. Therefore, I conclude that the appeal should be dismissed.

*Sarah Manchester*

INSPECTOR