

Allerdale Borough Council

Planning Application FUL/2021/0161

Proposed Development: Wetland enhancements, existing brackish pond and improvement of path surface and installation of a length of boundary fence

Location: Siddick Ponds Nature Reserve, Workington

Applicant: Mr Julian Smith on behalf of Allerdale Borough Council

Recommendation: Grant

The press advert for this application has not yet expired and will expire on the 30th September 2021, after Development Panel. Members are therefore asked to delegate the final consideration of any representations received after the Development Panel meeting to the Head of Governance and regulatory Services.

1.0 Summary

| Issue | Conclusion |
|---------------------|---|
| Biodiversity | The scheme is intended as an enhancement of the existing nature reserve and is acceptable in relation to Policy S35. Natural England supports the proposal. |
| Flood Risk | No objections to the proposal have been raised by the Environment Agency or the Local Lead Flood Authority. The works will be subject to a separate Flood Risk Activity Permit from the Environment Agency. |

2.0 Proposal

2.1 The proposal seeks planning permission for wetland enhancement to the existing nature reserve. This includes mainly:

- Engineering operations consisting of cut and fill to an area within and adjacent to the existing brackish pond (a combined pond of fresh and salt water) to extend and re-align the pond, including measures to reform and extend the shoreline of the pond, create additional scrapes/shore/mudflat and create additional shingle islands.
- Creation of a permanent water channel surrounding the mudflat area to isolate breeding and foraging areas as much as possible from land-based disturbance and predation.
- Excavation and restoration of channels that connect the brackish pond to the freshwater pond to the eastern side of the cycleway (the southern channel is presently blocked completely) and installation of two 2no. sluices within the underpass of the two existing bridges spanning these channels (forming the

cycleway that passes through the site), to control water levels in the freshwater and brackish ponds

- New post and wire fencing to the extended brackish pond to ensure disturbance by people and dogs is kept to a minimum and a partially resurfaced path to aid circulation round the site.

2.2 The purpose of the works are to re-establish the southern underpass between the brackish to regulate water flow through both underpasses connecting the freshwater and brackish ponds, with water level management to optimise conditions for birds, and to improve the physical conditions of the reserve for wading birds and terns in particular, and to encourage nesting at the site. The low level net fencing is to prevent human/dog disturbance to the ponds. The works, and their benefits, are detailed fully within the submitted Design Statement by Wardell Armstrong.

2.3 Allerdale Borough Council (ABC) has secured funding from the Water Environment Grant to carry out the works.

3.0 Site

3.1 Siddick Ponds is located on the northern outskirts of Workington, to the north west of the residential area of Northside. The submission indicates that it is one of Cumbria's most important bird sites, consisting of large reedbeds and extensive open water habitat, including a brackish pond, which is unique in Cumbria and attracts a distinctive community of resident and migratory birds throughout the year, including bittern, for which it is the northernmost regular wintering site in the UK. The combination of two ponds - one freshwater to the east of the former railway line, the other (brackish to the west) - contributes to the diversity of species using the site. The site is designated as a Local Nature Reserve (LNR) and a Site of Special Scientific Interest (SSSI). Ling Beck feeds into the freshwater pond and the brackish pond discharges to Ling Beck and the River Derwent (both designated Main Rivers), approximately 500m to the south west and during exceptionally high tides water can flow back up the beck from the estuary into the brackish pond.

3.2 The nature reserve is located in a mixed use area, with heavy industry, retail, housing and allotments surrounding the site. The A596 runs to the west and the former railway, now cycleway passes though the site in a north/south direction.

4.0 Relevant Planning History

4.1 None relevant. There are currently works being undertaken on the adjacent allotment site, also by the Council, to rationalise and improve the allotment facility and change part of the site to supplementary nature reserve.

5.0 Representations

Cumbria County Council Highways Authority/Local Lead Flood Authority

- 5.1 Raise no objection in principle. Initially requested a Flood Risk Assessment for the proposal but following confirmation that the works would require a Flood Risk Activity Permit from the Environment Agency and that the Environment Agency had confirmed that the proposal did not require flood modelling or risk assessment, the LLFA has confirmed that they no longer require a Flood Risk Assessment.

Natural England

- 5.2 Natural England welcome the enhancement works being carried out within this SSSI. The mitigation methods set out within the Construction Environment Management Plan or Landscape & Flow Control Works should be secured and available to people on site during construction work. Natural England specify a number of elements that the Construction Environment Management Plan will need to address.

Environment Agency

- 5.3 The Environment Agency advise that they are currently in the process of determining a Flood Risk Activity Permit (received 17 June 2021, ref EPR/YB3458LW) for these works, that an effective eel pass will need to be provided at the sluice and it should be ensured that flow is provided through the eel pass at most times. Flow to the eel pass must be slightly below crest level of the sluice, and that the applicant should ensure that all materials being excavated from the site are either re-used on site or sent off site to an appropriate permitted waste site. If the shingle which is being brought on to site is 'waste', an exemption or permit may be required.

Health and Safety Executive

- 5.4 Do not advise against the development.
- 5.5 Following consultation, no responses have been received from Workington Town Council, Cumbria Wildlife Trust, Cumbria Butterfly Trust, the RSPB, and Environmental Health.
- 5.6 The application has advertised by press advert, site notice and neighbour letter, albeit this consultation is ongoing.
- 5.7 No representations have been received to date. Members of the Development Panel will be updated of any representations received via the late list.

6.0 Environmental Impact Assessment

- 6.1 With regards to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the development does not fall within Schedule 1, but as it falls within a sensitive area, it requires screening under schedule 2.

- 6.2 A screening opinion has been undertaken and it is determined that although the works are to a sensitive area, the impacts of the proposal are intended to enhance the nature reserve and any impacts of the development are considered unlikely to be significant.

7.0 Duties

- 7.1 Regulation 9 of the Conservation of Habitats and Species Regulations 2017 requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions. This site is a Site of Special Scientific Interest and not a designated European Site (SAC or SPA), however, the ponds do connect into the Derwent, which upstream is a European Site, as is part of the Solway Firth.

8.0 Development Plan Policies

Allerdale Local Plan (Part 1)

- 8.1 The following policies are considered to apply:-

Policy S1 - Presumption in favour of sustainable development
Policy S2 – Sustainable Development Principles
Policy S29 - Flood Risk and Surface Water Drainage
Policy S35 – Protecting and Enhancing Biodiversity and Geodiversity
Policy S36 – Air, Water and Soil Quality

<https://www.allerdale.gov.uk/en/planning-building-control/planning-policy/local-plan-part-1/>

Allerdale Local Plan Part 2

- 8.2 The following policies are considered to apply:-

Policy SA52 - Green Infrastructure

<https://www.allerdale.gov.uk/en/siteallocations/>

9.0 Other material considerations

National Planning Policy Framework (July 2021)

- 9.1 The details of this document can be viewed here:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

9.2 Allerdale Council Strategy 2020 – 2030

The details of this document can be viewed here:

<https://www.allerdale.gov.uk/en/about-council/council-strategy-2020-2030/>

10.0 Policy weighting

- 10.1 Notwithstanding any duties identified above, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan Allerdale Borough Local Plan (Part 1) 2014 and Part 2 (2020) have primacy.

11.0 Assessment

11.1 Biodiversity

- 11.2 Policy S35 of the ALPP1 seeks to maintain and improve conditions for biodiversity and the protection of sites and species according to their level of importance.
- 11.3 The proposal has been brought forward by Allerdale Borough Council Parks and Open Spaces Section as managers of the reserve, as an enhancement scheme for the existing Nature Reserve at Siddick Ponds and has secured grant funding from the Water Environment Grant (WEG). The purpose of the works are set out briefly at section 2.2 above and are intended to improve the existing habitat for birds and to allow greater control over water levels, again, to improve conditions for birds.
- 11.4 An Ecological Appraisal and Habitat Management Plan has been provided with the application along with a Design Statement. The former provides the requirements to maintain and improve the biodiversity value of the Local Nature Reserve (LNR) overall up to 2021, and is not specific to the proposed works under consideration. However, the proposed works would appear to contribute in part to the tasks and aims outlined within this plan. The latter is specific to this scheme and sets out in detail the purpose for each element of the works, in order to improve conditions for biodiversity and protect the site from human interference.
- 11.5 Natural England has confirmed its support for the scheme subject to a detailed Construction Management Plan that would minimise any disturbance to this habitat during the construction works. The temporary construction works raise the potential for limited and short term adverse effects through disturbance to and possible pollution of the habitat and species using the site. However, through an appropriately detailed Construction Management Plan, it is considered that these adverse effects could be mitigated and any disturbance to the reserve in the short term, would be outweighed by the wider and longer term benefits of the

work. As such, the proposal is considered to be acceptable, having regard to policy S35 of the Allerdale Local Plan Part 2.

- 11.6 The Environment Agency has noted the need for an eel pass to be installed within the proposed sluices. This can be secured by condition.
- 11.7 The proposal would not impact on the status of the site as forming part of the Green Infrastructure Network.

11.8 Flooding and Drainage

- 11.9 Policy S29 of the ALPP1 directs development away from areas at risk from flooding, and seeks to ensure flood risk is not increased elsewhere, requiring full consideration of the surface water drainage hierarchy.
- 11.10 The nature reserve itself is designated Flood Zone 3 – land at the highest risk of flooding. It is a wetland habitat, with ingress and egress of water from Ling Beck and the estuary. It is necessary to ensure that the proposed works to the ponds/wetland, which include cut and fill operations to the landform, do not increase flood risk to others by displacing water.
- 11.11 The Environment Agency (EA) have been consulted on the application along with the County Council as Local Lead Flood Authority (LLFA). Ling Beck is designated a Main River, which falls under the remit of the Environment Agency. The consultation response from the Environment Agency raises no objection to the application and advises that the works themselves will be subject to a separate Consent process from them for a Flood Risk Activity Permit. The applicant has provided further correspondence with the Environment Agency confirming that as part of the Permit application, flood modelling and a Flood Risk Assessment was not required and no such request forms part of the Environment Agency's response to the planning application. Having been advised of this position, the County Council LLFA has withdrawn their request for a Flood Risk Assessment and raises no objection to the proposal.
- 11.12 As the works will be subject to a separate permitting regime for flood risk activity and as neither consultee has raised objection to the proposal in terms of flood risk, it is considered that the proposal is acceptable in relation to policy S29.

11.13 Other matters

The advice from the Environment Agency regarding waste management can be added as an advisory note, but waste management is subject to a separate permitting regime, which it is not necessary to duplicate.

Local Financial Considerations

- 12.0 Having regard to S70 (2) of the Town and Country Planning Act the proposal has possible financial implications in terms of funding secured under the Water Environment Grant.

13.0 Conclusions

- 13.1 Having regard to relevant policies of the Local Plan Parts 1 and 2, the development is considered to be acceptable subject to conditions.

Annex 1

CONDITIONS

Time Limit:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990.

In Accordance:

- 2. The development hereby permitted shall be carried out in accordance with the following plans:
GM11500-003 Rev A - Proposed Stop Gate Arrangements to Existing Bridges
GM11500-004 – Rev A - Wetland Enhancement Section A-AA
GM11500-002 – Rev A - Wetland Enhancement General Arrangement
GM11500-006 Site Location Plan
GM11500-005 - Wetland Enhancement Section B-BB**

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

Pre-commencement conditions:

- 3. Construction Environment Management Plan:
No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. The statement shall include the following:**
 - a) Traffic Management Plan to include all traffic associated with the development, including site and staff traffic, off site parking, turning and compound areas;**
 - b) Procedure to monitor and mitigate noise and vibration from the construction and to monitor any properties at risk of damage from vibration, as well as taking into account noise from vehicles, deliveries. All measurements should make reference to BS7445.**
 - c) Mitigation measures to reduce adverse impacts on residential properties from construction compounds including visual impact, noise, and light pollution.**
 - d) A written procedure for dealing with complaints regarding the construction;**
 - e) Measures to control the emissions of dust and dirt during construction (including any wheel washing facilities);**

- f) **Programme of work for Construction phase;**
- g) **Hours of working and deliveries;**
- h) **Details of lighting to be used on site;**
- i) **Highway signage/ Haulage routes.**
- j) **Construction Surface Water Management Plan**
- k) **Pollution prevention measures to include materials and machinery storage, biosecurity, and the control and management of noise, fugitive dust, surface water runoff and waste to protect any surface water drains and the Special Area of Conservation from sediment, and pollutants such as fuel and cement.**
- l) **Measures to establish a 10m buffer strip to the river, and a bund across the track that leads down to the river to prevent any sediment and pollution in surface water run-off from reaching the Special Area of Conservation. All materials and equipment must be stored outside the buffer strip, and there should be a designated concrete mixing / refuelling site outside the buffer strip, with spill kits on site and drip trays used for refuelling.**
- m) **Measures to include the check-clean-dry procedure to reduce the risk of introducing and/or spreading invasive non-native species (e.g Himalayan balsam, Japanese knotweed, Crassula helmsii, Dikerogammarus villosus) or infecting the river with the fungal spores of crayfish plague. Any machinery or equipment to be used in the river must be high pressure washed or steam cleaned with clean tap water (not river water) then dried. Once dry, the machinery/equipment must be kept completely dry for 48hours prior to use in the river.**

The approved statement shall be adhered to throughout the duration of the development.

Reason: In the interests of safeguarding the amenity of the occupiers of neighbouring properties and to minimise pollution and disturbance to the Local Nature Reserve during the construction works of the development hereby approved, in compliance with the National Planning Policy Framework and Policies S32 and S35 of the Allerdale Local Plan (Part 1), Adopted July 2014 and in the interests of highway safety.

4. **No development shall take place on the sluices hereby approved until a detailed design for an eel pass to the sluices has been submitted to the Local Planning Authority for approval in writing. The approved eel passes shall be fitted to the sluices before the development is substantially complete.**

Reason: In the interests of biodiversity, in accordance with policy S35 of the Allerdale Local Plan (Part 1), Adopted July 2014 and advice contained within the National Planning Policy Framework.

NOTES TO APPLICANT

Environment Agency

Materials - The applicant should ensure that all materials being excavated from the site are either re-used on site or sent off site to an appropriate permitted waste site. If the shingle which is being brought on to site is waste an exemption or permit may be required.

Further advice can be found at: <https://www.gov.uk/guidance/waste-environmental-permits>

Cumbria County Council – Local Lead Flood Authority

Informative: The applicant should contact CCC for any of the works which may affect the ordinary watercourse for information and guidance. Contact: LFRM Consent LFRM.consent@cumbria.gov.uk.

