

<b>Agenda Item</b> A5	<b>Committee Date</b> 17 October 2016	<b>Application Number</b> 13/00211/OUT
<b>Application Site</b> Land South of Brewer's Barn between Lancaster Canal, the A601(M) and Whernside Grove Carnforth Lancashire		<b>Proposal</b> Outline application for a new inland marina (up to 50 berths), associated facilities building, hotel, associated parking and new access arrangements.
<b>Name of Applicant</b> Mr R. Hughes		<b>Name of Agent</b> Graham Anthony Associates
<b>Decision Target Date</b> 11 June 2013		<b>Reason For Delay</b> Awaiting signing of legal agreement
<b>Case Officer</b>		Mrs Jennifer Rehman
<b>Departure</b>		No
<b>Summary of Recommendation</b>		Approval

**(i) Procedural Matters**

This application was reported to the Planning Committee on 21 July 2014 with a recommendation of approval, subject to the outcome of advance notice consultation with the Health and Safety Executive (HSE) and the agreement and signing of a s106 agreement. The HSE withdrew their objection on 28 July 2014 on the grounds that a condition would be imposed to ensure the proposed hotel would be sited at least 9m from the major accident hazard pipeline. On this basis, HSE advised that they did not need to consider whether or not to request the application be called-in by the Secretary of State. The safety matters were therefore resolved.

**ii)** Turning to the s106, there has been considerable delay in advancing the legal agreement and for all parties to agree and sign it. At a point when all parties were in agreement and in most cases had signed the agreement it transpired that the location plan had not been updated to reflect the amended site plan (that was submitted before the Planning Committee in July 2014) which removed the originally proposed field access off the proposed roundabout. The implications in terms of the s106 meant the landowner of the field located off the proposed access would also have had to be party to the s106. Subsequently, we have received a revised location plan to reflect the development (site plan) previously considered by the Planning Committee which has removed the need for the landowner of the field to be party to the agreement. Whilst the s106 could be signed now, Officers highlighted that condition 7 reported in the July 2014 Committee report remained a condition of the permission unnecessarily (as it related to the field access that was no longer proposed). As the Planning Committee had resolved to approve the development with this condition, Officers now seek the Committee's approval to remove the condition relating to the field access off the proposed roundabout.

The condition read as follows:

*No part of the development pursuant of this application shall commence until a scheme to ensure that farm vehicles (such as tractor with trailer) can wait beyond the highway boundary to access the gate/field to the east of the proposed roundabout and can exit the field with clean wheels. This access point in the field to the east of the roundabout cannot be used until the approved scheme has been constructed and completed in accordance with the scheme details.*

*Reason: In the interest of highway safety.*

- iii)** Given the length of time since the Committee's original resolution, the report has been updated to reflect current planning policy and take account of the Committee minutes of July 2014 meeting, in particular the inclusion of an additional condition relating the separation distance of the hotel to the pipeline and a noise management plan of the operating marina (an issues debated at the Committee meeting). The recommended conditions set out in this report have been updated to reflect the Member's earlier resolution but by in large the report is as previously drafted back in 2014.
- iv)** The principle of the development and the main considerations listed remain valid. Despite planning policy changing over the last few years, our recommendation remains one of approval. Officers are simply asking the Members to consider whether they are satisfied with the removal of the originally recommended condition pertaining to the field access of the proposed roundabout.

## **1.0 The Site and its Surroundings**

- 1.1 The application site relates to a 3.5ha parcel of agricultural land located on the fringe of Carnforth within the designated Countryside Area. The site is bound by Lancaster Canal to the south, the Whelmar Estate to the west, the A601(M) to the east and agricultural land (also in the applicant's ownership), extending up to Carnforth Brow to the north.
- 1.2 Existing vehicular and pedestrian access to the site is via North Road from the west (Carnforth) or Netherbeck (which is a continuation of North Road) from the east (the Kellets). There is an existing field access off Netherbeck to the north and an access to the site via the existing property, Brewers Barn, which is accessed through the Whelmar Estate. The A601 (M) which runs along the eastern boundary is separated from the site by a strong belt of trees. This road enjoys motorway regulations and provides the connection between the M6 to the A6 (Scotland Road).
- 1.3 The topography of the site and its surroundings is gently undulating at relatively low altitudes ranging between approximately 12.5m Above Ordnance Datum (AOD) and 20m AOD; this is typical of the local landscape character which is described as Low Coastal Drumlins. The levels are at their lowest adjacent to the Back Lane watercourse (north of the application site) rising and falling gently towards the base of the canal embankment where the site levels are circa 19m AOD. The top of the canal is approximately 21.4m AOD. Field boundaries within the site consist of native hedgerows and trees and provide important landscape features. Recent tree planting is evident along the boundary with the Whelmar Estate, whilst much more mature and dense landscaping exists along the boundary with the A601(M). There are two significant trees close to the field access off Carnforth Brow (within the blue edge) that are protected by a Tree Preservation Orders (TPO) (Nos.179 -1989) and TPO 133 -1998) and a group of protected trees (TPO 005 – 1974) within the amenity land to the south of Whernside Grove (but outside the applicant's control). There are no protected trees within the application site.
- 1.4 Lancaster Canal runs along the southern boundary of the site and is designated as a Biological Heritage Site (BHS). It is therefore recognised for supporting a diverse range of habitats and species. There are drainage ditches within the site as well as open and culverted sections of Back Lane Watercourse, which is a tributary of the River Keer. The Environment Agency (EA) flood maps indicate the site lies within Floodzone 1. There are however small pockets of land within Floodzone 2 and 3 adjacent to the Back Lane watercourse and existing properties on Whernside Grove.
- 1.5 Other constraints on site include a high pressure gas pipeline that runs north-south alongside the eastern boundary and overhead electricity power lines which cross the site. The site is also located within a Mineral Safeguarding Area.

## **2.0 The Proposal**

- 2.1 The applicant is seeking outline consent for a mixed use scheme comprising a new inland marina (providing up to 50 berths) off Lancaster Canal with an associated service building and parking area for leisure/holiday purposes and a hotel and parking area with a new vehicular access off the A601 (M), together with pedestrian/cycle links to the Whelmar Estate via land to the north of Brewers Barn.
- 2.2 The layout, scale, appearance and landscaping of the development proposal are matters reserved for subsequent approval. The details provided in relation to such matters are indicative only. Access is to be considered in full as part of this outline application. This involves an at-grade roundabout junction off the A601 (M) for all vehicular traffic and new pedestrian and cycle links to Carnforth via Whernside Grove and Carnforth Brow.
- 2.3 The application is broken down into two distinct elements:

**The Marina and associated service building and parking** – the illustrative plans show the marina to be located on the west side of the site providing up to 50-berths to be used and occupied for holiday purposes only. A facilities building is proposed to accommodate WC facilities, office and storage space and what appears to be a large open foyer. The layout, scale and appearance of this building are not for consideration at this outline stage. The indicative plans indicate 17 parking spaces and 3 coach parking spaces for this element of the proposal.

**Hotel and associated parking** – it is only the principle of a hotel that is for consideration at this time, although the applicant has indicated that for the purposes of assessing certain aspects of the proposal, Officers should consider the hotel to accommodate 60 beds (Clarification was sought as due to inconsistencies in the submission as some documents refer to a 100-bed hotel and others a 60-bed hotel). The indicative proposals show the hotel located alongside the canal within the eastern side of the site, with its rear elevation facing the canal. The illustrative drawing shows the hotel to be up to 3 storeys high. The level of car parking indicated on the illustrative plans suggests 103 spaces for this element.

## **3.0 Site History**

- 3.1 The local planning authority received an outline planning application for a similar proposal in March 2012 as noted in the table below:

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
12/00269/OUT	Outline Application for the construction of a 50 berth Marina, hotel, facilities building, wind turbine, car parking and landscaping with full details of access arrangements	Withdrawn

This application was withdrawn to try and overcome a number of concerns and objections raised by consultees and officers, in particular issues in connection with the sequential test for the hotel element of the proposal and highway concerns associated with the proposed access. The main physical difference between the current submission and the withdrawn submission is the omission of a wind turbine, which no longer forms part of the proposal.

Since the pending Marina and Hotel application was reported to committee in July 2014, the applicant has pursued a further outline planning application for residential development which is still pending consideration. It is likely be reported before the end of the year. Currently Officers are still negotiating and assessing the application with particular regard to highway, safety and design considerations. The relevant application reference and associated Screening Opinion are noted in the table below:

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
16/00123/EIR	Screening request for residential development	LPA concludes the proposal is not EIA development

16/00335/OUT	Outline application for the erection of 158 dwellings with associated new access incorporating a roundabout and access road	Pending Consideration
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#### 4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
<b>Highway Agency</b>	<p><b>No objections</b> subject to the following conditions:</p> <ul style="list-style-type: none"> <li>▪ No development shall commence until the A601(M) has ceased to be subject to motorway regulations</li> <li>▪ No development shall commence until full design and construction details of the highway improvements to the access junction have been submitted and agreed. The agreed detail must be constructed in full before the development of the marina and hotel.</li> <li>▪ No development shall commence until full details of all amendments to traffic signs and carriageway makings required under the reclassification of the A601(M), together with and associated TRO have been submitted and agreed.</li> <li>▪ The development should not be brought into use until the amendments to traffic signs and carriage markings and any other off-site highway works (under TROs) have been completed to the satisfaction of the LPA.</li> <li>▪ Travel Plan to be submitted and agreed prior to the development being brought into first use</li> </ul>
<b>County Highways</b>	<p><b>No objections</b> subject to the following requirements/conditions:</p> <ul style="list-style-type: none"> <li>▪ The status of the A601(M) to be amended to remove motorway regulations</li> <li>▪ Scheme for off-site highway improvements to improve accessibility from the site to the town centre (condition and legal agreement to cover improvements to existing public right of way (PROW) not on highway land)</li> <li>▪ Full constructional access details including internal road layout and scheme for preventing pedestrian and cycle access to the new junction and highway (A601(M) as existing)</li> <li>▪ Visibility splay protection</li> <li>▪ Construction method statement</li> <li>▪ Details of cycle storage, mobility and parent/child parking provision, motorcycle provision</li> <li>▪ Service and Delivery Strategy (operational requirements)</li> <li>▪ Travel plan details and implementation</li> </ul> <p>A Section 106 legal agreement would be required to secure implementation/funding of a Travel Plan and a sustainability contribution to go towards PROW improvements.</p> <p>Further dialogue is ongoing between Officers and the developer regarding the breakdown of the highway contributions.</p>
<b>Minerals &amp; Waste Planning Authority</b>	<p>The site is in a Minerals Safeguarding Area as defined by the Joint Lancashire Minerals and Waste Local Development Framework Site Allocation and Development Management Policies Local Plan. Following further submitted information the Mineral &amp; Waste Authority no longer object to the application.</p>
<b>Planning Policy Team</b>	<p>Following the submission of an amended sequential assessment, there are concerns about the location of the proposed hotel. The former TDG site in the centre of Carnforth is sequentially preferable. However it is contended that given the limited policy weight that can be afforded to the emerging Land Allocations DPD, that these concerns would not warrant refusal of planning permission alone.</p>
<b>Lancashire Constabulary Traffic Management Facilitator</b>	<p><b>No objections</b> to the proposed roundabout subject to the national speed limit being reduced to 50mph. The road in the vicinity of the proposed roundabout enjoys the national speed limit which is 70mph.</p>

<p><b>Canal &amp; Rivers Trust</b> <i>(Statutory Consultee role)</i></p>	<p><b>No objections</b> subject to the developer entering into a s106 agreement to provide appropriate canal towpath to boost connectivity to the town – this would involve a contribution of £102,000. Details of the footbridge over the marina and measures to protect the canal during construction are necessary at reserved matters stage. No objections on flood risk grounds or on canal stability.</p> <p>The Trust are satisfied with the additional ecological assessment submitted and no longer recommend a condition to this effect.</p>
<p><b>Canal &amp; Rivers Trust</b> <i>(Marina Unit's role)</i></p>	<p><b>No objections.</b> The location of the marina is unlikely to raise any navigational safety issues and the local waterway infrastructure is capable of accommodating the proposed development.</p>
<p><b>Natural England</b></p>	<p><b>No objections.</b> They offer their standing advice in respect of protected species. They have also responded to the revised ecology information advising they made no objection to the original proposal.</p>
<p><b>County Ecology</b></p>	<p><b>Initially Objected</b> – requiring further pre-determination information relating to the impact on bats and their habitats and the potential need for mitigation and compensation. The submission also failed to assess the impacts on the Biological Heritage Site.</p> <p>Following further ecological assessments and surveys, the County Ecologist remains concerned that the proposal presented, albeit indicative, does not provide sufficient evidence to determine avoidance/mitigation or compensation for impacts to protected species and/or habitat loss can be accommodated on site and that it would be inappropriate to condition a scheme for mitigation to be agreed at the reserved matters stage. However, it is suggested that it could be appropriate to condition and specify the required mitigation/compensation which would subsequently influence the quantum and layout of the development which will come forward at the reserved matters stage.</p> <p><i>NB: the draft s106 secures land to be used for biodiversity compensation if a reserved matters application does not suitably mitigate against ecological impacts in the first instance. County Ecology had raised concerns over the area of land suggested to be secured as potential compensatory land. However their suggestion that it could be possible to condition mitigation requirements which would in turn influence the quantum and layout of the development in the first instance should mean that land secured for biodiversity off-setting/compensation should not really be needed.</i></p>
<p><b>Environmental Health Service</b></p>	<p>Concerns raised about lack of detail concerning the wind turbine. Notwithstanding this, the following conditions have been requested:</p> <ul style="list-style-type: none"> <li>▪ Noise assessment and control</li> <li>▪ Commercial/Industrial Noise break-out (fans/ducting/openings)</li> <li>▪ Hours of construction</li> <li>▪ Scheme for dust control</li> <li>▪ Scheme for odour control</li> <li>▪ Details of floodlighting</li> <li>▪ Standard contaminated land conditions</li> </ul> <p>Following further consultation which sought to clarify that the wind turbine does not form part of the proposal, the EHS have <b>no objections</b> subject to conditions to prevent adverse impacts on residential amenity (as noted above).</p>
<p><b>United Utilities</b></p>	<p><b>No objection</b> subject to conditions regarding drainage (on a separate system) and a scheme for foul and surface water to be agreed. Advises that the scheme should comprise foul drainage connected into the public foul sewerage system and surface water discharging directly to soakaway or watercourse which may require the consent of the EA / Local Authority.</p>
<p><b>Environment Agency</b></p>	<p><b>No objection</b> – the EA's Initial objection has been removed on the grounds that the developments foul drainage will connect to the main sewers. The following conditions are recommended:</p>

	<ul style="list-style-type: none"> <li>▪ Details of foul and surface water drainage to be agreed</li> <li>▪ Development to be carried out in accordance with FRA including mitigation measures relating to finished floor levels and surface water run-off rates (1 in 100 year plus climate change critical storm event).</li> <li>▪ Precise details of the stream alignment to open channel to be provided at reserved matters stage.</li> <li>▪ Repeat water vole and vegetation surveys as per the ecology survey</li> </ul>
<b>National Grid</b>	National Grid has a Major Accident Hazard Pipeline in the vicinity of the site – proximity distances must be adhered to and any other, potentially more, stringent easements that the HSE require. National Grid recommend the HSE are formally consulted and offer a series of advice notes for the applicant.
<b>Health Safety Executive (HSE)</b>	HSE <b>Don't Advice Against</b> the granting of planning permission.
<b>Office of Nuclear Regulation (ONR)</b> <i>(agency of the HSE)</i>	No comments on the application
<b>Tree Protection Officer</b>	<b>No objection</b> subject to the following conditions: <ul style="list-style-type: none"> <li>▪ Arboricultural Method Statement to be submitted before site activity</li> <li>▪ Tree Works Schedule to be submitted with an subsequent REM/FUL application</li> <li>▪ Tree Protection Plan to be agreed</li> </ul>
<b>Ramblers Association</b>	Do not wish to see a wind turbine on the site. <i>NOTE – there is no wind turbine proposed as part of this application.</i>
<b>Lancashire Constabulary</b>	No further comments to those made under the earlier application. For clarification the Police raised no objections provided consideration is given to ensure crime reduction measures are incorporated into the design of the development.
<b>Carnforth Town Council</b>	<b>Objection</b> on the following grounds: <ul style="list-style-type: none"> <li>▪ The proximity and scale of the marina bank is disproportionate and would affect residents access to light, particularly given the properties adjacent are bungalows.</li> <li>▪ No indication that the new access is feasible or possible. Concerns aired that is the road retains its existing status as Motorway, there will be no access to the site for non-motorway vehicles (including some emergency services; maintenance vehicles; agricultural or construction vehicles.</li> <li>▪ The project is unviable without non-Motorway access and that a separate enquiry is held into the de-classification of the A601(M).</li> <li>▪ Whilst supportive of new development in the town, especially where it relates to tourism, the development does not support the strategic objectives of the town on the basis that it is development on a greenfield site (which protects the town); the Hotel is focused on the Motorway and will do nothing to promote tourism within the town (due to accessibility concerns); the Marina is similarly inaccessible, and; the site is not well integrated and is isolated from public transport.</li> <li>▪ The development conflicts with policies SC1 and SC2.</li> </ul>

## **5.0 Neighbour Representations**

5.1 There has been a significant level of public interest in the application, with **47 letters of objection** received in response to the initial consultation. The main reasons for opposition are summarised as follows:

### ***Highway Issues***

- Increased risk of traffic-related accidents if the A601(M) is declassified to an A road giving cyclists and pedestrians the ability to use this road;
- The A601(M) has motorway status and even if this is removed it remains a dual carriageway

where national speed limits apply;

- North Road is narrow, has limited footpaths, suffers significant on-street parking and is on a hill. Any increase in traffic will increase the risk of highway-related accidents;
- Emergency vehicles can not always up/down North Road because of parked vehicles and narrow carriageway;
- Pedestrian and cycle access are poor generally in the locality – especially through Brewers Barn to the bottom of Carnforth Brow is dangerous – poor visibility and no footpaths;
- Constructing another roundabout for this “white elephant” project is unreasonable and dangerous. Vehicles existing from the M6 will first approach a large roundabout and then soon after approach another roundabout of a smaller radii;
- Concerns about a potential vehicle route being formed from the development creating a rat run to the A601(M) and the M6;
- Concerns about traffic and congestion on the Kellet Road and North Road during construction of the roundabout – particularly if traffic needs to be diverted.
- Poor access provision made for wheelchair users and strollers;
- Poor access to public transport.

### ***Economic/social Issues***

- Out of town development like the proposal would discourage visitors to Carnforth;
- Job creation would be at the cost of job losses in the town centre;
- No need for an additional marina – there are two in close proximity which are not at full capacity;
- No need for an additional hotel as there are several underused in the area;
- No need for an additional motorway rest area;
- Town centre/local amenities are 2 miles from the site - the site is too isolated;
- Impact on the existing Burton Services if the proposal is intended to support M6 users;
- The TDG site would make an ideal hotel complex or re-using and developing the closed Queen’s Hotel on Market Street;
- Motorway traffic is already well catered for by existing overnight establishments;
- The proposal fails the sequential test as required by the NPPF;
- The application does not clarify the occupancy of the marina berths (holiday or residential);
- The proposal poorly integrates with the existing community.

### ***Environmental Issues***

- Sewerage system is already insufficient – this will place extra demands on infrastructure;
- No assessment vibration from the quarry on the stability and structural integrity of the marina;
- Where is the Risk Assessment to conclude that the risk of structural failure is low;
- Flood risk to immediate neighbours in the event of embankment failure or marina water level;
- Impact on biodiversity;
- Impact on the landscape – the development is out of scale and character with its surroundings;
- Loss of greenspace – views have already been blighted by the Business Park;
- Loss of agricultural land;
- Brownfield sites should be developed before greenfield sites;
- Additional boat use on the canal could lead to canal side collapse;
- A wind turbine would be visually intrusive and distracting (*note: no wind turbine proposed*);
- The site suffers from surface water flooding;
- The hotel and car park should to be moved away from the high pressure gas pipeline (to meet the specified distance). This would suggest that the hotel, car park and marina will not fit within the site boundaries and therefore the proposal should be refused on safety grounds.

### ***Amenity Issues***

- Increased risk of crime/anti-social behaviour by encouraging pedestrian access through the Whelmar Estate and increased risk of the fear of crime given the easy access to the M6 for opportunist criminals;
- Increase in light, air and noise pollution and general disturbance (construction and operational stages);
- Overlooking and loss of privacy;
- Loss of light and overbearingness due to the height of the marina embankments, despite recent tree planting, relative to the land levels of neighbouring properties.

### ***Policy Issues***

- The proposal should be refused until the Land Allocations DPD which forms part of the

emerging Local Plan has proceeded and been ratified.

### **Other**

- No significant changes to the previously withdrawn scheme – previous objections raised have not been overcome;
- Civil matters concerning rights of way from the site to North Road (not a planning consideration);
- Previous comments on withdrawn application should be taken into account;
- The Council should safeguard residents from damage from the development and obtain indemnity, in particular in the case of flooding issues;
- Increase in insurance premiums for existing residents (not a planning consideration);
- The project, as presented, cannot be financially viable – this is a developer's ploy to build a roundabout to gain access to the land and then apply to build houses on it – the applicant has alluded to future phases of residential development in a presentation to the community at the Civic Hall.
- Loss of property values for properties on Whernside Grove (not a planning consideration);
- Inaccurate statements made in the submission (such as, reference to the special status of the A601 (M) being removed);
- Questions over the legalities of keeping an application alive to allow future changes to the scheme

At the time of compiling this report **21 letters of support** has been received including a letter of support from David Morris MP. The reasons for support are as follows:

- Previous concerns have been addressed in the current submission, in particular the removal of the wind turbine;
- Provides employment and tourism opportunities;
- Economic benefits;
- The proposal constitutes sustainable development and should be supported in accordance with para 187 of the NPPF;
- The community benefits would outweigh the environmental concerns;
- Good design and improvements to public open space;
- The development appears to be a natural infill and will improve local infrastructure;
- It is a popular tourist area being the gateway to the Lake District;
- When the marina and garden centre were built at Brock, Garstang, the development benefited the area and community – the advantages were numerous and as such residents and trades of Carnforth are to gain from the proposal;
- A local farmer indicates that nobody can make a living from such a small existing parcel of land used for agricultural purposes;
- Change is a good thing and can bring investment and enhancement of an area.

Additional representations have recently being received following the deferral of the application. These include a set of photographs showing the site flooded and comments in relation to the HSE representations and the PADHI+ process. The comments received remind Officers that in the event the Council support the proposal, the HSE should be informed. Concerns over the ability to provide the access in close proximity to the pipeline have also be raised in these representations.

## **6.0 Principal Development Plan Policies**

- 6.1 Since the application was reported in July 2014, the Council's Local Plan (DM DPD) has been adopted. At the time of reporting previously, the DM DPD and the MAAP had been subject to examination and so were at an advanced stage of preparation. The DM DPD policies were material considerations at the time of considering the application initially. The DM DPD and policies therein now form part of the adopted Development Plan.

### **National Planning Policy Framework**

Paragraphs 7, 14 and 17 – Sustainable Development and Core Principles

Paragraphs 18-22 – The delivery of a strong and competitive economy

Paragraphs 23-27 – Town centre uses and the sequential test

Paragraph 28 – Rural economy

Paragraphs 31, 32, 34 and 35 - Promoting Sustainable Transport



Paragraphs 100 – 104 – Flood Risk

Paragraphs 9, 17, 109, 117 and 118 – Conserving the natural environment

Paragraphs 194, 196, 197 and 203 – 206 – Decision taking and planning conditions/obligations

#### Lancaster District Local Plan (saved policies)

Policy TO4 – Large scale recreational development

Policy T9 – Sustainable, Accessible Development

Policy T17 – Green Travel Plans

Policy T26 - Strategic Cycle Network

Policy T27 – Public Rights of Way

Policy E4 – Countryside Area

Policy E12 – Impacts on Wildlife

#### Core Strategy

Policy SC1 – Sustainable Development

Policy SC5 – Achieving Quality in Design

Policy SC6 – Crime and Community Safety

Policy SC7 – Flood Risk

Policies ER2 – Regeneration Priority Areas(Carnforth)

Policy ER4 – Town Centres

Policy ER6 – Tourism

Policy E1 – Environmental Capital

Policy E2 – Transportation

#### Development Management DPD:

DM1 – Town Centre development

DM7 – Economic Development in Rural Areas

DM12 – Leisure facilities and Attractions

DM13 – Visitor Accommodation

DM20 – Enhancing Accessibility and Transport Linkages

DM21 – Walking and Cycling

DM22 – Parking Provision

DM23 – Travel Plans

DM27 – Protection and Enhancement of Biodiversity

DM28 – Development and Landscape Impact

DM29 – Protection of Trees, hedgerows and Woodland

DM35 – Design

DM38 – Flood Risk

DM39 – Surface water run-off-SUDS

#### 6.2 Other Considerations

National Planning Practice Guidance

### **7.0 Comment and Analysis**

7.1 The main issues raised by this proposal relate to:

- Principle of leisure/tourism development in the location proposed;
- Highways Implications;
- Biodiversity Implications;
- Design and visual amenity considerations; and,
- Impact of development on existing Infrastructure.

#### 7.2 **Principle of development**

At the heart of the NPPF is the presumption in favour of sustainable development. Delivering sustainable development is also echoed in the District's Core Strategy and the Development Management DPD. Paragraph 7 of the NPPF explains that there are three principal roles to sustainable development, namely economic, environmental and social, and these roles are mutually dependant. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

#### 7.3 The Development

There are two distinct elements to the proposal which do not appear to be directly dependant or reliant

upon one another. The first is an inland waterway marina (providing up to 50 berths) which will be constructed off Lancaster Canal. Confirmation has been received that the moorings would be for holiday/leisure use only and would not be used as permanent residential moorings. This form of development would constitute tourism/leisure development. Such development is clearly dependent upon the location and access to the inland waterway network.

- 7.4 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth and therefore significant weight should be placed on the need to support economic growth through the planning system [paragraph 19, NPPF]. The economic benefits of tourism and leisure uses carry significant weight in this case. That said it is also clear in national policy that leisure uses are considered town centre uses and therefore the 'town centre first' approach should be adopted. This therefore applies to the hotel element of the proposal. With regards to the marina and given the site's edge-of-settlement location, Officers see no objection to the principle of a marina within the application site boundary. Despite concerns raised about the need and demand for additional marinas in this part of the District, such a facility can contribute to the visitor economy. The provision of additional inland waterway marinas is supported by the Canal & Rivers Trust who identified an increase in the number of boats on the wider network, which has led to a shortage in supply of available moorings. The principle of a marina on the application site is therefore acceptable in land use planning terms.
- 7.5 The hotel element of the proposal is more controversial. Despite the inconsistency and lack of clarity within the submission, the applicant's latest supporting information states that the primary purpose of the hotel is for leisure/tourism accommodation. They suggest that being located by the M6 provides an "added bonus" and will provide additional transient trade. The Design & Access Statement originally placed a greater emphasis on the hotel providing a refreshment break for motorway users, albeit acknowledging that it would not be a full motorway service area. The NPPF says that leisure/tourism uses, such as hotels, are considered main town centre uses and should therefore be subject to the rigorous tests set out in national guidance and policy DM1 of the DM DPD – the purpose being to protect, support and enhance the regeneration, vitality and viability of existing towns. The Core Strategy (Policy ER4) recognises Carnforth Town Centre as a key service centre, a market town and a visitor destination. Policy ER2 of the Core Strategy also identifies Carnforth as a regeneration priority area. The 'town centre first' approach to new development clearly helps support the Council's aspirations to regenerate Carnforth and support the vitality and viability of the market town. The application site is not an allocated site either in the existing Local Plan or in the Draft Local Plan (Land Allocations DPD). The application site consists of an edge of town, greenfield site, located within the designated 'countryside area'. Proposals for town centre uses outside recognised centres (like Carnforth) need to be justified.
- 7.6 The Sequential Test  
NPPF Paragraph 24 states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require proposals for main town centre uses to be located in town centres, then sequentially in edge-of-centre locations, and then only if suitable sites are not available should out-of-centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
- 7.7 The applicant has provided a hotel needs assessment and a sequential assessment. The sequential assessment was recently updated to address previous concerns about the method in which the applicant had discounted the availability and suitability for the development to be accommodated on other sequentially preferable sites. A total of 13 alternative sites had originally been considered by the applicant. Despite deficiencies with the initial sequential assessment, a later revised assessment had satisfied Officers that all but one of the sites is either 'not available' or 'suitable' for the development. However it should be noted that a number of the sites assessed were also edge-of-centre or out-of-centre sites and therefore not sequentially preferable. The only site that the Council contend could be regarded as a sequentially preferable site is the former TDG site in the town.
- 7.8 The applicant argues that the former TDG site is not currently available nor is it likely to be within a timeframe which would be commercially viable for the applicant. The wider site is still presently used by businesses, including transport operations and industrial users which the applicant argues would be incompatible with a modern, prestige hotel. The applicant argues the TDG site has poor vehicle access via the congested Market Street and is poorly located for a use aimed primarily at serving the motorway traffic and the leisure market. The applicant indicates that this would affect the viability of

the proposed development.

- 7.9 It is the Council's view that in the absence of evidence to the contrary, the site could be regarded available for the purposes of the sequential test. It is understood that the site has been advertised and marketed (Keer Park) in 2013 and that marketing is still ongoing with lettings board still displayed at the site. The arguments put forward by the applicant concerning the unsuitability of the TDG site for the proposal do not appear fundamental constraints. Such concerns could be overcome through an appropriate comprehensive redevelopment of the former TDG site. The applicant's argument that the proposal is a 'county' type hotel is not entirely convincing, particularly when there are inconsistent messages in the submission about the primary purpose of the hotel. Notwithstanding this, there is no reason why a hotel in an urban location cannot access the commercial or leisure markets, and no reason that this type of trade is reliant on a greenfield edge of town site. Equally, the Core Strategy clearly seeks to encourage leisure/tourism uses within the centre to promote the town as a visitor destination.
- 7.10 Whilst the TDG site is a sequentially preferable site, Officers are mindful that current Development Plan status of the TDG site is one of employment land (saved policy EC5) which seeks to support B1, B2 and B8 uses. It is the emerging Land Allocation DPD which identifies the site as an Opportunity Site (OPP2: Former TDG site), and indicates that the Council will support the regeneration and redevelopment of this brownfield site for a mixture of uses rather than simply employment land. Since the application was reported in 2014, the employment land status of the site still remains the case.
- 7.11 Since the application was originally reported back in July 2014, a further site has become available and should be taken into account for the purposes of the sequential assessment required under the NPPF and policy DM1. The site relates to the Queens Hotel located on Market Street in Carnforth town centre. The site is currently marketed on rightmove (Reeds Rains) for £375,000 and includes the public house/hotel and land to the rear. Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date plan. Paragraph 27 goes on to state that where an application fails to satisfy the sequential test it should be refused.
- 7.12 The NPPG goes on to state that it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal. In this regard, Officers are particularly mindful of whether this sequentially preferable site is suitable for the development proposed and the demand which the proposal is intended to meet, with due regard to the requirements to demonstrate flexibility.
- 7.13 In assessing whether the former Queens Hotel site offers a suitable location for the development, Officers are mindful of the site's heritage designations (located within the Conservation Area with the hotel being recognised as a non-designated heritage asset identified on the local list), the poor access arrangement off Market Street; demand for parking and the nature of adjoining uses. There have also been two planning applications recently considered by the local planning authority for the redevelopment of the land to the rear of the hotel for residential development. The first application was refused on the grounds that the scale, massing and height of the development would fail to preserve or enhance the Conservation Area; inappropriate access arrangements and increased traffic would be detrimental to highway safety; the proposal failed to consider the needs of adjacent businesses in terms of access and servicing, and impact on neighbouring amenity. The second application was approved following a significant reduction to the amount of development proposed (a loss of 10 residential units in total). Subsequently, whilst the NPPG expects flexibility from both applicant and the authority in terms of scale and form, it is unlikely that the development proposed (even if slightly reduced) could be suitably accommodated on this more central site. Even if a reasonable number of bedrooms could be accommodated (but significantly less than 50 bedrooms) within the former hotel and a two-storey new build (this is the scale of the approved residential apartments) on the land to the rear, the demand for parking and traffic generated from the development would be considered constraints to development. On this basis, Officers are satisfied that this sequentially preferable site would not be suitable for the scale and form of the hotel development proposed and therefore the sequential test is passed in this regard.
- 7.14 Officers accept that the TDG site has a number of existing employment uses present on site and that currently, whilst it is directly adjacent to the existing centre, it lacks function and direct access to Carnforth Town Centre. However, bringing the site forward incorporating hotel development as part

of a wider mixed use regeneration scheme could resolve concerns over compatibility with existing uses and access to the centre. Officers are mindful of the current policy position of this sequentially preferable site. A hotel (or other town centre use) on the former TDG site would, at present, be a departure to the adopted Development Plan. Flexibility for alternative land uses on this site and its future redevelopment is envisaged through the emerging Land Allocations DPD. Whilst the emerging policy relating to this site seem realistic for future development, for the purposes of the sequential test and consideration of this current proposal only limited weight can be afforded to the policy aspirations of the emerging Land Allocation DPD. Consequently, whilst Officers are of the opinion the TDG site could accommodate the proposed hotel in the long term as part its wider redevelopment, given the current policy status of this sequentially preferable site and consideration of the revised sequential assessment, Officers are of the opinion that a refusal of planning permission on these grounds could not be substantiated at this time.

- 7.15 Paragraph 24 of the NPPF indicates that when considering edge of centre and out of centre proposals (because in-centre sites are not available or suitable having undertaken a sequential test), preference should be given to accessible sites that are well connected to the existing town centre. This brings us to highway matters and accessibility.
- 7.16 With regard to the principle of development, it is understood that the site lies within a minerals safeguarding area and as such development proposals which would prejudice the ability to extract minerals from the site should be prevented. The applicant has undertaken further work in this regard in order to remove the objection from the County Council. There is no longer an objection from the County Council in their Waste and Minerals Authority role.
- 7.17 **Highway Considerations**  
The application is supported by a Transport Assessment which provides information in respect of the local area and site characteristics, consideration of highway-related/sustainability policy, a description of the development and details of the highway-related impacts associated with the proposal, such as trip generation and capacity assessments. This assessment has been considered and accepted by Lancashire County Council as the Highways Authority and the Highways Agency.
- 7.18 The site is located between the A601(M) and Carnforth Brow, to the north-east of Carnforth beyond the built-up environment. The A601(M) connects to the A6 Scotland Road and to the B6254 Kellet Road via junction 35 of the M6 motorway. Despite some confusion within the submission, Officers can confirm that whilst the A601(M) no longer forms part of the trunk road network and is no longer managed and maintained by the Highways Agency on behalf of the Secretary of State for Transport; it is though subject to motorway regulations and therefore limited only to Class I and Class II vehicles. The A601(M) was transferred from the Secretary of State for Transport to Lancashire County Council in the mid 1980's under 'The Lancashire County Council (Carnforth Link) Special Road Scheme 1985' and 'The Lancashire County Council (Carnforth Link) Transport of Highways and Alteration of Side Roads Orders 1985'.
- 7.19 Access to the site is currently taken off Carnforth Brow or via the adjacent residential estate to Brewer's Barn. In both cases, the majority of the time, access will be via North Road. As local residents have pointed out in their representations, North Road is a narrow highway impinged by unrestricted parking on either side of the carriageway for some of its length. This combined with narrowing of the highway in particular sections severely impinges the ability for the existing highway network (North Road) to cope with significant additional vehicular movements. Subsequently, the applicant seeks to take the access off the A601(M). The access arrangements involve the construction of an at-grade, three-armed roundabout and new pedestrian/cycle links from the application site to Carnforth Brow and via the Whelmar Estate. The proposed roundabout has been subject to a Stage 1 Safety Audit. The principal recommendation from this Safety Audit is to remove the motorway regulations from stretch of the A601(M) between the M6 junction 35 and the existing roundabout junction with the A6 Scotland Road. Despite comments in the submitted Transport Assessment which suggested that the removal of the motorway regulations was not essential to ensure the safety of the proposed at-grade roundabout junction (due to the existing speed limits imposed on the highway), this was not the view of the Highways Agency or the Highway Authority (Lancashire County Council Highways). The applicant is now fully aware and accepts that the special status of the A601(M) would require separate reclassification in order to be supported by the statutory consultees.
- 7.20 The Highways Agency has indicated that they would have no objection to the route being reclassified.

If this occurs they would not object to an appropriately designed, at-grade roundabout being used to serve the site. Turning to the development itself, they are satisfied that its impact on the trunk road network is unlikely to be significant provided appropriately-worded conditions are imposed relating to the access and management of traffic, in particular the replacement of signs on the motorway to reflect the classification and route number of the current A601(M).

- 7.21 The Highway Authority recognise that the inclusion of the proposed development will increase the number of vehicles on the network and that appropriate measures will be required to facilitate the safe and efficient movement for all transport modes. Changing the Special Status of the A601(M) and removing the motorway regulations for its full length would be required in order to support the proposed at-grade roundabout junction and ultimately the principle of development of the site. Discussions have taken place between Lancashire County Council, the Highways Agency and the Department for Transport to agree 'in principle' the legal process/instrument that will need to be followed to precede the required changes to support the delivery of this proposal. To support the required de-classification of the A601(M) an appropriate scheme of highway improvements would be necessary. This scheme would need to include changes to all signs on and off the motorway that make reference to the A601(M), changes to road markings, rumble strips, possible electronic signs linked to speed detection equipment on the approach to the new roundabout, which would also have to be illuminated. The aim would be to reduce vehicle speeds in the interests of highway safety. From a planning perspective a Grampian condition is necessary requiring the reclassification of the A601(M) before development commences and separate planning conditions dealing with the scheme for off-site highway works. This approach is supported by the statutory consultees.
- 7.22 With regards to the actual vehicular access detail submitted, there are no objections to the principle of the roundabout layout proposed, although subtle design changes are necessary. The precise constructional design detail of the access would be subject to condition.
- 7.23 In addition to the reclassification of the A601(M), it is essential that the proposed leisure development is accessible by all modes and that all movements can be safely accommodated or mitigated. This is necessary in order to ensure the development proposal is as sustainable as possible. Despite being located on the edge of the built-up area of Carnforth, the site is isolated from the town centre and the local services and amenities. Officers do acknowledge that the type of development proposed and its operation means that the most realistic transport mode is predominately likely to be made by private car. In order to support local and national planning policy, it is essential the proposal provides access for sustainable modes, especially pedestrians and cyclists. A number of measures are proposed and/or required by the Highway Authority. These are noted in the following section of the report. However, it is important to note that the Highway Authority specifically state that whilst some linkage will be provided, this will not be at a level that can be considered as sustainable or that can satisfy sustainable or access needs for other uses, and that this proposal is a development that can stand alone and operate with limited sustainability.
- 7.24 The application proposes a direct link to the canal towpath and also that the towpath would be upgraded to improve access to the town centre for visitors, local residents and new employees. The Canal & Rivers Trust have no objections. The towpath element of the proposal clearly contributes to ensuring development is integrated within existing pedestrian and cycle networks, noting that it is also a recognised national Cycle Route. To ensure delivery of the proposed upgrades to the towpath, the developer would be required to make a contribution towards the upgrading and surfacing of the towpath from the site to Bridge 128 (Market Street) which would serve the most direct route to the town centre. Alternatively the developer may wish to carry out the works in agreement with the Trust. Either option would need to be secured by way of legal obligation. The applicant is amenable to this requirement with terms to this effect included within the draft s106 and agreed by the Canal and Rivers Trust.
- 7.25 Pedestrian and cycle movements have been a particular concern to Officers and the Highway Authority. Removing the special status of the A601(M) may mean other modes of transport/vehicles can legally use the highway and it is critical to consider road safety in this respect. The majority of pedestrian/cycle movements from this leisure development are likely to be towards the town centre. Movements in the opposite direction via the de-classified A601(M) would be relatively few given its countryside designation and limited other uses in the vicinity, with the exception of Pine Lakes leisure development. This issue has been carefully considered, with County Highways concluding that given the constraints that exist along its length it appears that there is not a realistic solution which can be delivered by this development proposal to provide a continuous cycle and pedestrian footway facilities

on this road safely. The package of pedestrian/cycle measures proposed within the site include:-

- Scheme to deter pedestrian/cyclists to the new roundabout junction. The application suggests a 3m wide path with pedestrian deterrent paving. This would not be sufficient to prevent pedestrians/cyclists accessed the re-classified A601(M). The detailing of this could be controlled by condition.
- Cycle/pedestrian links from the site to North Road and Whernside Grove.
- Links to the towpath

Measures external to the site include:-

- Pedestrian/cycle measures on Scotland Road linking to a suitable point north of the A601(M)
- Removing barriers within the centre of Carnforth to improve use by sustainable modes, this could be achieved by reviewing existing Traffic Regulation Orders on key routes to the site via Carnforth.
- Suitable signage strategy to inform visitors/employees of the proposal to alternative routes (for pedestrian/cyclists)
- Improvements to existing public rights of way (footpaths 22, 23 and 26)
- Implementation of travel plans and funding to the County to monitor the Travel Plans (relating to each development type).

The above measures are either proposed and/or accepted by the applicant and would be controlled and delivered by planning condition and/or legal agreement. These measures contribute towards achieving good design by making proposals and places as legible as possible, thus contributing to delivering sustainable development. Such measures are considered reasonably necessary to make the development acceptable.

7.26 Overall, for the type of development proposed, there are no highway objections to the application. Where there are highways concerns, the applicant – in consultation with Officers and the Highway Authority – have sought solutions and identified appropriate mitigation to limit significant impacts of the development. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are *severe*. Given the type of development proposed and the agreed nature of the proposed mitigation and highway improvements, Officers are satisfied the proposal would not result in severe impacts and on this basis the application is acceptable in relation to highway grounds.

#### 7.27 **Biodiversity Implications**

The application site sits immediately adjacent to the Lancaster Canal Biological Heritage Site (BHS) and proposes to cut into the canal to provide a new marina basin. The site is open agricultural land dissected by hedgerows and water features and contains some mature trees. Whilst the application is submitted in outline (with layout, scale, appearance and landscaping reserved at this stage) biodiversity cannot be treated as a “reserved matter” and should be considered fully at the outline stage, whereby the local planning authority has to establish whether the principle of the development is acceptable or not. An ecology report was initially submitted with the application but was considered deficient. It was not clear that the impacts on biodiversity could be avoided, mitigated or as a last resort compensated as required by national policy. It failed to provide any assessment of the impact of the proposal on the BHS particularly in relation to loss of part of the canal to facilitate the marina access and the indirect ecology impacts that could arise by increases in boat traffic, boat wash effects and pollution. The report also failed to fully assess the potential impacts of the proposal on protected bat species.

7.28 The NPPF is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature [paragraph 9], and it is a core planning principle [paragraph 17] that development should contribute to conserving and enhancing the natural environment. In addition to the NPPF, there is a statutory duty for planning to seek to minimise impacts on biodiversity. Paragraph 99 of the 06/2005 Circular states *that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted*. Therefore it is an integral part of policy and decision making, in particular with regard to protected species and protected habitats, where the presence of either is a material planning consideration.

7.29 The applicant’s original justification for the absence of full ecological/protected species survey was on the grounds the application was in outline form only and the extent of development and layout was unknown. The National Planning Practice Guidance confirms that there is a statutory basis for

planning to seek to minimise impacts on biodiversity and provide net gains wherever possible. That is a fundamental facet of planning and is underpinned by Section 40 of the Natural Environment and Rural Communities Act 2006, which requires all local authorities to have regard to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its Biodiversity 2020 Strategy. It should also be noted that the relevant guidance and legislation (Bat Conservation Trust guidance, Circular 06/2005 and the Conservation of Habitats and Species Regulations 2010 (as amended)) does not make any distinction between outline/full and reserved matters applications. The applicant eventually accepted our position that it was not appropriate to defer consideration of biodiversity at the reserved matters stage and agreed to undertake further surveys in order to understand and evaluate the importance of the site for protected species and the potential impacts likely that could arise from the development – it was for this reason the application was deferred in December last year.

- 7.30 The applicant has now provided additional supporting information in relation to protected species and an assessment of the impacts on the Lancaster Canal Biological Heritage Site (BHS). Officers have consulted with the key consultees in relation to this topic, including Natural England, the Canal & Rivers Trust and the County Ecologist.
- 7.31 In terms of the impact on the BHS, whilst adequate survey effort has been carried out, the assessment of the potential impacts is not comprehensive. In particular, it has not accounted for potential bank stabilisation works that may be required on the southern edge of the canal in order to prevent any increased erosion due to the wash from boats turning into and out of the marina entrance. The Canal & Rivers Trust have given an indication in their latest response that bank protection would typically extend a distance of 30 metres either side of the entrance and would usually be sheet piling. Subsequently, this would lead to a further loss of soft bank habitat/vegetation which has not been taking into account by the applicant at this stage. The applicant has provided as part of this assessment recommendations/mitigation in relation to the construction and operational phases of the development. By in large these recommendations are acceptable, however, as noted above the proposed mitigation does not account for additional bank stabilisation works. Subsequently, Officers are not convinced that the quantum of development suggested on the indicative plans together with appropriate mitigation/compensation and habitat enhancement could be achieved within the development site. Subsequently, any approval of planning permission would be on the basis that the illustrative layout will need to be substantially amended at the reserved matters stage.
- 7.32 In order to provide appropriate assurances that the principle of the development is acceptable and that impacts on biodiversity can be overcome, the applicant has agreed to amend the development description to read “*up to 50 berths*” rather than “*a 50 berth marina*”. This clearly provides greater flexibility to amend (reduce) the scale of the proposals at the reserved matters stage. It equally provides sufficient reassurances to Officers, and hopefully Members, that the applicant is under no illusion that in order to address biodiversity considerations, the layout and quantum of development may need to change (reduce). Alternatively, if a substantial revision to the scale and layout of the development is not possible, the applicant could consider off-site compensation (creation of a wetland habitat) on land adjacent to the development site but within the applicant’s control in order to accommodate adequate mitigation and habitat creation. Compensation is a last resort therefore this option would need careful justification. This option would have to be secured by way of a planning obligation. The applicant has agreed to include an obligation to this effect within the legal agreement.
- 7.33 Turning to the impacts of the proposal on protected species of wildlife, specifically bats. The applicant has now undertaken further activity surveys in enable a more robust understanding of bat activity at this site. Despite some deficiencies in the survey work and report submitted, it is clear that bats are active at this site in the transitional period (spring) and the main bat activity season (summer); and that bats are active throughout the night which is a good indication that there is sufficient foraging resources at the site. It is clear from the survey effort undertaken that there are a number of linear habitats, namely hedgerows, which provide good foraging/commuting habitat and as a consequence there is preference for these features to be retained. The indicate layout presented would result in the loss of these linear habitats and would lead to an adverse impact on protected bat species. The applicant accepts that the layout is indicative and that it would need to be revised to avoid such impacts and where avoidance is not possible adequately mitigate the impacts. Subsequently and despite the additional information provided, in the absence of details to demonstrate avoidance,

mitigation and compensation – mainly because the scale and layout is indicative – Officers are mindful that it would be inappropriate to simply condition further details of mitigation to be provided. This would be contrary to national planning policy and guidance.

7.34 Case law in the form of the Woolley judgement (Woolley v Cheshire East Borough Council and Millennium Estates Ltd [2009] EWHC 1227) is relevant. This says:

*“...it is not sufficient simply to be aware of the presence of bats, a planning authority also has to be satisfied that effective mitigation measures can be put in place before planning permission can be granted and it is necessary for the decision maker to be satisfied that such mitigation measures achieved the desired result”.*

Having regard to this case law and the advice of the County Ecologist it is, however, considered reasonable to impose a condition which specifies the required mitigation/compensation at this outline stage. The applicant has agreed with this approach and the County Ecologist's comments and has indicated that there is scope to incorporate mitigation/compensation into a revised layout for the scheme at the reserved matters stage. For the purposes of clarification, in the event of planning permission being supported, an appropriately worded condition should be imposed which requires the reserved matters application to incorporate the following mitigation:

- Maintenance and enhancement of unlit habitat connectivity and habitat for bats along the western boundary;
- the area of habitat along the A601(M) embankment and the area in proximity to the bat roost (under the road bridge) to remain unilluminated;
- no increase in artificial illumination of the canal corridor;
- replacement native species hedgerow planting with hedgerow trees to offset the loss (in the event hedgerow retention is not possible);
- proportionate mitigation or compensation to offset the loss of habitat along the canal (BHS);
- replacement hedgerows and/or other habitats to be provided to secure biodiversity enhancement;
- site lighting to accord with guidance issued by the Bat Conservation Trust and Institute of Lighting Engineers; and
- landscaping scheme to secure habitat connectivity through the development site.

In order to achieve the above mitigation, it is highly probable that the indicative layout will need to be amended in order to ensure that the impacts of the development on protected species and biodiversity in general is not adversely affected by the development proposals.

7.35 The NPPF requires the planning system to contribute to and enhance the natural environment by minimising the impacts on biodiversity and providing net gains in biodiversity where possible (para 109). Officers are reasonably satisfied that with the above mitigation, which would have to be designed into the scheme at the reserved matters stage, that the impact on biodiversity and protected species would not be significant. In fact, with the above mitigation and/or compensation there is a potential opportunity to enhance biodiversity in this area. The applicant has agreed that the above mitigation/compensation would be required and that this could be included as part of the reserved matters application. In the event additional land is required to secure the above mitigation within the confines of the development site, the developer would be expected to consider reducing the scale of the development – either the marina and/or the hotel element of the scheme. The application seeks outline permission for a marina (up to 50 berths) and a hotel (no size specified). Subsequently, there is sufficient flexibility in granting this permission for the scale and layout of the marina and hotel to be amended to secure no adverse impacts on biodiversity. On this basis, Officers are satisfied that the principle of development can be supported and that the impacts on protected species and biodiversity in general can be appropriately mitigated.

### 7.36 **Infrastructure Consideration**

In accordance with the NPPF [paragraph 194] the local planning authority has consulted with the appropriate statutory consultees in relation to nearby hazards and infrastructure, in particular the high pressure gas pipeline that runs through the site. Officers have consulted direct with the Health and Safety Executive (HSE) and they advised to carry out a PADHI+ consultation (i.e. a self-administered consultation assessment by the local authority) based on the indicative layout and based on the consultation on the hotel element only. The outcome of the consultation, because of the proximity of



the hotel to the pipeline consultation zone, is that HSE 'Advice Against' the grant of planning permission. Despite an amended plan relocating the hotel element one metre further away from the pipeline, this would not alter the outcome. Notwithstanding this, having regard to the PADHI+ guidance, Officers are satisfied that the layout could be amended at the reserved matters stage to ensure the hotel element of the proposal is not within 9m of the centre-line of the pipeline. This would then achieve a 'Do Not Advice Against' response via the PADHI+ system. Given layout is reserved and that there is sufficient flexibility within the site boundary and the proposal (hotel size is not fixed) to revise the scheme accordingly, a refusal of planning permission on these grounds would not be warranted. Officers had written to the HSE in advance of the July 2014 committee and provided them with an Advance Notice letter to inform them of the positive recommendation. Procedurally, where an authority seeks to support a proposal in the knowledge of an objection ("Advice Against" response) from the HSE, the authority should notify the HSE of their decision (recommendation at this stage) so that the HSE can consider the case further and assess whether the proposal should be "called-in" to the Secretary of State. The HSE responded to this letter and removed their objection. There are no safety objections to the application provided a condition is imposed to ensure the hotel is not located within the inner zone of the pipeline.

7.37 National Grid is responsible for the gas pipeline. They have informed us that the gas pipeline is laid in a legally negotiated easement to which certain conditions apply and it is therefore essential that access to the pipeline is not restricted, particularly in the event of an emergency. Therefore, there must be no obstructions within the pipeline's maintenance easement strip, which would limit or inhibit essential maintenance works on the pipeline. It is the responsibility of the developer to contact National Grid to seek their consent for works within or adjacent to the pipeline. The Build Proximity Distance (BPD) for the pipeline is 8 metres (this is 8m in either direction from the centre line of the pipe line. It is understood the car parking within BPD is acceptable. National Grid advise the local planning authority to consult with the HSE.

7.38 The development is also shown to be adjacent to or affect Electricity North West operational land or electricity distribution assets (power lines and pylons). Electricity North West advise that where the development is adjacent to operational land the applicant must ensure that the development does not encroach over the land or any ancillary rights of access or cable easements, and if planning permission is granted the applicant should contact Electricity North West. It is for the developer to seek the appropriate consents to carry out works within or adjacent to this infrastructure. The purpose of planning is to establish land use principles and not duplicate other regulatory regimes.

7.39 The development proposal will undoubtedly have an impact on the canal, as it proposes to connect to the inland water network and create a new marina basin. There has been a significant level of concern from local residents, in particular those that reside adjacent to the site, about the implications of building a marina basin where the natural land levels are lower than the adjacent canal. The marina will effectively be a raised basin which is illustrated on the indicative drawing. New marina/mooring developments on inland waterways require the consent of the Canal & Rivers Trust in the form of a Network Access Agreement. Despite going through a series of design construction stages including risk assessment, the New Marinas Unit need to be sure that there is sufficient water and capacity to accommodate it, and that the technical specifications of the marina are adequate to protect the integrity of the waterway and the safety of its users. The actual opening of the navigable access between the new marina site and the existing waterway will only be allowed when the stilling test (test of water-tightness) has been completed to the satisfaction of the Canal & Rivers Trust (new Marina's Unit). The marina, despite being in private ownership, would form part of the canal and as such it is in the interest of the Trust to ensure the marina is built to appropriate standards/safeguards. Matters of liability (raised by some residents) lie with the developer or operator of the marina. The Trust has raised no objections on the grounds of canal stability. In terms of the impact of the development on nearby infrastructure, including the canal, there is no reason why planning permission should not be granted.

7.40 **Design & Amenity Considerations**

The application site sits immediately adjacent to existing residential development. It is nestled between the canal and the A601(M). Whilst it provides a pleasant outlook for existing nearby residents and people using the canal, it is not a designated landscape or within or adjacent to a conservation area/scheduled ancient monument. It is however designated as countryside area and therefore any proposal should reflect the rural and open qualities of the countryside area. The topography of the site falls slightly into the centre away from its edges and then rises and falls again on land to the north (outside the red edge). The development proposal will have a localised

landscape impact. This is inevitable given the development proposed. However, it is not considered to be a significant landscape impact. The site is most prominent from a small number of immediate dwellings and the canal. Views from the A601(M) are restricted by landscaping and views of the site from Carnforth Brow are restricted by the undulating topography. The indicative plans show landscaping along the western boundary of the site, separating the site from neighbouring residents. Some planting has already occurred in this location and will help in the long term soften the visual impacts of the proposal. Finished ground levels of the car parking and hotel would be essential at reserved matters stage to see how the car parking areas will respond to the site contours. The same is needed for the hotel because of the difference in land levels between the towpath and the application site. Such constraints would not prevent an appropriately-designed scheme advancing at the reserved matters stage. Similarly, the actual design and scale of the hotel would need careful consideration to ensure it appropriately responds to the public realm of both the site itself and the canal. What is presented at this outline stage, does not in Officers' opinion achieve high quality design in this respect. Overall, however, whilst the proposal will result in a marked change in the landscape at a localised level, its position in-between the existing built-up area and the A601(M) diminishes any significant concerns about the loss of greenfield and landscape impact. Officers are satisfied that there is sufficient flexibility within the site to accommodate an appropriately designed scheme which reflects its rural character and sensitive location adjacent to the canal. There are no landscape or design reasons to refuse the principle of the development at this outline stage.

7.41 With regards to residential amenity, it is acknowledged that the application site is situated close to a number of properties on Whernside Grove and that these properties are bungalows with little private amenity space to the rear. It is also understood that nearby residents are seriously concerned about the proposal, particularly the marina element of the scheme. Protecting the living conditions of nearby residents is a material consideration. The marina element of the scheme is situated over 37 metres from the rear boundaries of the properties backing the site at Whernside Grove. This exceeds our standard separation requirements. The proposal presented is more likely to result in a perceived loss of privacy and outlook because of the scale of the marina – the top of the marina is similar to the height of the neighboring buildings. It is not unreasonable to think that residents living in these neighbouring properties will feel like they are overlooked by people walking and boating within the new marina. However, given the commitment to provide landscaping along the boundaries with these residents and the distance between the properties and the marina (although this could change as layout is reserved), there is no reason why good design and landscaping could not adequately mitigate residential amenity concerns at the reserved matters stage.

7.42 Impacts on living conditions during the construction phases of development can be adequately controlled by condition. Similarly, conditions can be imposed to ensure the operations of the proposed uses would not adversely affect neighbouring residents (for example, no outdoor amplified music, appropriate external lighting, hours of use of the facilities building and function space within the hotel, ventilation and sound attenuation measures). Concerns in relation to the increased risk of crime relate to the provision of the new access link to the A601(M) and the new cycle/pedestrian routes through the site. However, good design should minimise the risk of crime and the fear of crime. Secure by Design principles should be adopted when advancing to the reserved matters stage. Despite concerns to the contrary, a refusal of planning permission based on residential amenity grounds would be extremely difficult to justify and substantiate at appeal.

#### 7.43 **Other Considerations**

##### ***Environmental Impact Assessment (EIA) Development***

The proposal falls within the tourism and leisure (12) descriptions of development within Schedule 2 of the EIA Regulations (2011). The marina falls within 12(b) of schedule 2 and the hotel falls within 12(c) of schedule 2. The proposal exceeds the identified thresholds in schedule 2. The hotel and associated parking would exceed the 0.5ha and the proposed marina exceeds an area of enclosed water surface of 1000sq m. The site is not within a 'Sensitive Area' as defined by the Regulations.

The NPPG sets out further guidance in relation to when an Environmental Statement (ES) is required for development proposals that fall within Schedule 2 developments. Paragraph 057 (annex – indicative thresholds) suggests that EIA is more likely to be required for large new marinas, for example where the proposal is for more than 300 berths (seawater site) or 100 berths (freshwater site). It also goes on to state that EIA is likely to be required for major new tourism and leisure developments which require a site of more than 10 hectares. In particular, EIA is more likely to be required for holiday villages and hotel complexes with more than 300 bed spaces.

Having regard to the Regulations, the guidance set out the NPPG and the considerations noted above, it is the opinion of the Local Planning Authority that whilst there will be environmental implications associated with the development due to the nature, scale and characteristics of the development and the development site, these environmental effects are not likely to be significant to warrant the development to constitute EIA development. All the main environmental considerations have been assessed in a reasonable and proportionate manner through the determination of this application.

#### 7.44 **Other Considerations** ***Flood Risk***

As noted at the beginning of this report, the site is not located within an area identified by the Environment Agency as being at risk of flooding (floodzone 2 or 3), although it is acknowledged there are areas nearby that are within these flood zones. It is also noted that the site and some of the surroundings have suffered from surface water flooding. Since the application was last reported, photographs of the site in flooded conditions have been submitted to the local planning authority. A Flood Risk Assessment (FRA) was submitted with the application. The Environment Agency and United Utilities have been consulted and have raised no objections to the proposal following revisions to the foul drainage proposals. However, this is subject to appropriately worded conditions relating to the foul and surface water drainage. Specifically, the site must drain to a separate system with only the foul connected to the existing systems. Surface water must drain to a soakaway/watercourse preferably through the use of a sustainable urban drainage system (SuDS), which must be designed to a 1 in 100 year event. The proposal, based on the current indicative drawing, involves the realigning of drainage ditches and the existing stream. The Environment Agency have indicated that at the time of submitting a reserved matters application, full details of any realignments of the ditches and open streams need to be submitted in full in order to fully assess the biodiversity implications. In the event that the proposal is supported, a condition should be imposed on the outline to this effect.

### **8.0 Planning Obligations**

The following matters are to be secured by way of a legal agreement:

- Travel Plan Delivery and Monitoring Contribution.
- Accessibility and Sustainability Improvements Contribution to the sum of £115,000 to provide a scheme for the implementation of sign posting and wayfinding at key points on the network to identify pedestrian/cycle routes between the application site and Carnforth centre; improvements to enhance pedestrian routes; investigation of the condition and improvements to PROWs Nos 22 and 26 between Scotland Road and North Road; investigation, consultation design and provision of appropriate cycle route from Carnforth centre towards the application site; review of the existing TROs on key routes between Carnforth centre and the application site.
- A scheme for the upgrading and resurfacing of the Canal Town Path to the sum of £102,000. to be agreed by the LPA in consultation with the Canal & Rivers Trust and to be implemented by the developer in agreement with the Trust or provide a contribution towards the upgrading of the towpath.
- In the event mitigation for the loss of canal bank habitat (and biodiversity across the site) cannot be secured at the reserved matters stage the developer will be required to provide off-site compensatory habitat within land controlled by the applicant (within the blue edge or a proportion of it).

### **9.0 Conclusions**

9.1 This proposal had been considered for a significant period of time before reporting the application to committee in July 2014, primarily because of the situation regarding the status of the road network, amended plans, and (as a separate matter unrelated directly to this particular application) officer workload. The deferral to address the ecology matters had also led to significant delays. There have been concerns regarding the appropriateness for a town centre use to be located in this edge-of-centre greenfield location. Contrary to this, the proposal would bring employment and investment opportunities to the district which would positively contribute to the local economy. Such benefits carry significant weight in the decision making process, and this has always been acknowledged by the local planning authority.

9.2 The application has adequately demonstrated that the significant and complex highway

considerations discussed in the report can be resolved and that appropriate highway and accessibility improvements can be delivered via condition and legal agreement. Both highway consultees have confirmed this to be the case.

- 9.3 With regard to design and amenity considerations, there is sufficient flexibility within the site boundary and the development proposal to ensure high quality design can be achieved at the reserved matter stage. This should seek to provide sufficient landscaping and appropriately designed buildings, and a place that is legible and accessible and of a design that reinforces local distinctiveness.
- 9.4 Despite deficiencies contained in the recent ecology information submitted and a failure to precisely identify impacts and therefore avoidance, mitigation and/or compensation at this outline stage, officers are satisfied that from the information provided it would be reasonable to impose a planning condition requiring specific mitigation to offset the potential impacts of the development on biodiversity. Paragraph 203 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It is contended that the imposition of a planning condition to secure specific mitigation for biodiversity impacts and a planning obligation to ensure where mitigation cannot be achieved (with justification) compensation will be provided off-site, are both necessary, relevant and reasonable to make the development acceptable in planning terms.
- 9.5 Officers therefore contend that the proposal accords with the Development Plan and therefore the presumption in favour of development applies (paragraphs 14 and 197, NPPF). Members are recommended that the proposal can be supported.

### **Recommendation**

That Outline Planning Permission **BE GRANTED** subject to a s106 legal agreement to secure contributions towards accessibility and sustainability improvements, Travel Plan review and monitoring, canal towpath improvements and reserving land for potential biodiversity compensation, together with the following conditions:

1. Time Limit (reserved matters)
2. Approved plans
3. Illustrative plans only
4. No development shall commence unless and until the A601(M) has ceased to be subject to motorway regulations.
5. Full details of all amendments to traffic signs and carriageway markings required as a result of the reclassification of the A601(M), together with any associated Traffic Regulation Orders, to be submitted and agreed with the Highway Agency and Highway Authority
6. Precise and full construction details of the highway improvements to the site access junction the A601(M) and off-site highway improvements works including pedestrian/cycle links to be provided and agreed, including a timetable to be agreed for delivery of off-site works.
7. Protection of visibility splays
8. Construction Method Statement (dealing with highway/traffic movements/routing, external lighting, dust control, wheel washing, noise assessment to be agreed before pile driving and the protection of the canal/BHS/milepost and existing infrastructure)
9. Hours of Construction and deliveries
10. Service & Delivery Strategy to be agreed and implemented in full before first occupation
11. Any reserved matters application shall need to demonstrate sufficient covered cycle parking, parent/mobility and standard car parking provision and coach parking within the site. A car parking management plan to be agreed before first use/occupation of the site.
12. Travel Plan
13. Marina to be used for holiday purposes only
14. Control Hotel to be Use Class C1 only
15. Condition preventing hotel to be located within 9m of the pipeline.
16. Details of external lighting (operational phase)
17. Commercial break out noise (all fans/ducts/extraction systems) to be of a type that prevents transmission of unacceptable noise and vibration)
18. Scheme for the minimisation and dispersion of fumes and odour produced by cooking (relates to the hotel element of the scheme) to be agreed and implemented before first use of this element of the proposal

19. Assessment of environmental noise arising from the development to be submitted with the reserved matters application or full application including appropriate mitigation where necessary to minimise impacts on nearby residents.
20. Drainage details (foul and surface water – separate systems informed by submitted FRA)
21. Arboricultural Method Statements and Tree Protection Plans to be provided at reserved matters stage
22. Ecology condition (specific mitigation to be incorporated into the design and reserved matters application including details of the realignment of drainage ditches)
23. Site Investigation (standard contaminated land condition)
24. Importation of soil materials (standard contaminated land condition)
25. Prevention of new contamination (standard contaminated land condition)
26. Oil Interceptor condition
27. Noise Management Plan for the operation of the marina

### **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, the City Council can confirm the following:

Officers have made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

### **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **Background Papers**

None.