

| Agenda Item | Committee Date | Application Number |
|-------------|----------------|--------------------|
| A5 | 2 March 2020 | 19/01464/FUL |

| Application Site | Proposal |
|--|---|
| RSPB Leighton Moss Storrs Lane Yealand Redmayne | Alterations to land levels to create ditches, bunds, pools and an island feature and the installation of a sluice to form an area of raised water |

| Name of Applicant | Name of Agent |
|-------------------|----------------|
| Mr Richard Miller | Mr Calum Booth |

| Decision Target Date | Reason For Delay |
|----------------------|------------------|
| 28 February 2020 | Committee Cycle |

| | |
|---------------------------|---------------------|
| Case Officer | Mrs Eleanor Fawcett |
| Departure | No |
| Summary of Recommendation | Approval |

1.0 The Site and its Surroundings

- 1.1 The site is located at Leighton Moss Nature Reserve within the Arnside and Silverdale Area of Outstanding Natural Beauty (AONB). Leighton Moss is a nature reserve which hosts a range of habitats, including reed beds, woodland and limestone grassland. It is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar Site, highlighting its particular ornithological importance. It is also functionally linked to Morecambe Bay, which is located approximately 550 metres to the southwest and designated as a SSSI, SPA, Special Area of Conservation (SAC) and Ramsar Site. Leighton Moss allows visitors to the reserve and contains a number of hides and footpaths.
- 1.2 The site predominantly contains reed bed habitat, with small areas of shrubs and a pond in the centre connecting with the wider water network. It is rectangular in shape and has an area of approximately 9 hectares and is wholly within Flood Zone 3. The site abuts existing wetland habitat at the reserve along the northeast, northwest and southwest boundaries. Adjacent to the southeast boundary is agricultural land, beyond which is woodland that is partly ancient and semi-natural. On the northwest edge of part of this wooded area is a public footpath. The nearest residential property is Moss House Farm, located approximately 110 metres to the south, with associated agricultural buildings and hardstanding approximately 50 metres from the site. The site is also within the Countryside Area, as identified on the Local Plan Proposals map, and is within a Mineral Safeguarding Area.

2.0 The Proposal

- 2.1 Planning permission is sought for the alteration of land levels to create an independent hydrological cell, formed by earth bunds, to provide an improved habitat for Bittern, a species of European nature conservation importance. The works proposed within this area include the creation of bunds along two sides, the increase in depth of the existing pool, the creation of an island feature within the pool and the installation of a sluice to control the water levels within this area. Whilst the area of the site extends to 9 hectares, the works would mostly be based around enhancing existing features.

3.0 Site History

3.1 There is some planning history in relation to the nature reserve, mainly associated with the visitor centre. The only history with this part of Leighton Moss relates to a request for pre-application advice and a screening opinion for the current proposal. The details are set out below:

| Application Number | Proposal | Decision |
|--------------------|---|------------------------|
| 19/01039/PRETWO | Pre-application advice request for the installation of an independent hydrological cell | Pre-application advice |
| 19/01081/EIR | Screening opinion for the installation of an independent hydrological cell comprising the raising and lowering of land levels | Closed |

4.0 Consultation Responses

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

| Consultee | Response |
|---|---|
| Parish Council | No comments received during the statutory consultation period. |
| County Highways | No objection. |
| Lead Local Flood Authority (LLFA) | No comments received during the statutory consultation period. |
| County Archaeology | No objection , subject to a condition requiring a programme archaeological monitoring. |
| Greater Manchester Ecological Unit (GMEU) | No objection subject to conditions requiring: work outside the breeding bird season, unless demonstrated that there are no active bird nests present; precautionary mitigation in relation to otters |
| Natural England | No objection , subject to conditions requiring works to only be undertaken between July and the end of October; and before works commence a breeding bird survey is undertaken to ensure that no SPA/Ramsar breeding birds are nesting in or adjacent to the site. |
| Environment Agency | No objection. |
| Arnsdale and Silverdale AONB Unit | No objection. |

5.0 Neighbour Representations

5.1 One letter of objection has been received, on behalf of Leighton Hall Estate, which raises the following concerns:

- The proposal will exacerbate current issues that exist in this location regarding drainage problems and increase flood risk to neighbouring farm land, buildings and associated livestock, resulting from the proposal to hold back water and increase water levels. There is no guarantee that the water will be held north-west of the boundary dyke and low bunds so that the adjacent land and buildings do not flood as part of the work and question whether the proposals are adaptable to the likely effects of climate change;
- Detrimental impact on employment as a result of flooded farmland; and
- Large scale/area of the proposal.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraphs 155, 158, 159 and 163 – Flood risk and sequential test
Paragraph 170 and 172 – Protecting valued landscapes and development within AONBs
Paragraphs 170, 171, 175 and 176 – Protecting and enhancing biodiversity
Paragraphs 189, 192, 193, 194, 197 and 199 – Designated and non-designated heritage assets

6.2 Local Planning Policy Overview – Current Position

On 15 May 2018, and in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), Lancaster City Council submitted the following documents to the Secretary of State (Planning Inspectorate) for examination:

The Strategic Policies and Land Allocations DPD; and,
(A Review of) The Development Management DPD

The Examination Hearing Sessions took place between the 9 April 2019 and the 1 May 2019. The Council has published the proposed Main Modifications to the Local Plan. An eight-week consultation into the modifications was undertaken and expired on 7 October 2019.

The Strategic Policies and Land Allocations DPD will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan.

The Review of the Development Management DPD updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making.

Given the current stage of both DPDs, it is considered that some weight can be attributed to the policies contained therein subject to the extent to which there are unresolved objections to the relevant policies and their consistency with the National Planning Policy Framework.

6.3 Lancaster District Core Strategy (adopted July 2008)

SC1 – Sustainable Development
SC5 – Achieving Quality in Design

6.4 Lancaster District Local Plan - saved policies (adopted 2004)

E3 – Areas of Outstanding Natural Beauty
E4 – Countryside Area

6.5 Development Management Development Plan Document (DM DPD)

DM27 – Protection and Enhancement of Biodiversity
DM28 – Development and Landscape Impact
DM32 – The Setting of Designated Heritage Assets
DM34 – Archaeological Features and Scheduled Monuments
DM35 – Key Design Principles
DM38 – Development and Flood Risk
DM39 – Surface Water Run-Off and Sustainable Drainage
DM40 – Protecting Water Resources and Infrastructure

6.6 Arnsdale & Silverdale AONB Development Plan Document (DPD)

AS01 – Development Strategy
AS02 – Landscape
AS04 – Natural Environment

AS07 – Historic Environment
AS08 – Design
AS12 – Water quality, sewerage and sustainable drainage

6.6 Other Material Considerations

Arnside and Silverdale AONB Landscape Character Assessment

7.0 Comment and Analysis

7.1 The main issues to be considered in the determination of this application are:

- Principle of the development
- Lancaster and visual impacts
- Ecological Impacts
- Flood Risk
- Impacts on Heritage Assets

7.2 Principle of the development

7.2.1 The site is located at Leighton Moss Nature Reserve within the Arnside and Silverdale Area of Outstanding Natural Beauty (AONB). The proposal is to create an independent hydrological cell formed by earth bunds in order to provide an improved habitat for Bittern, a species of European nature conservation importance. The site has an area of approximately 9 hectares and would therefore constitute a major planning application. Paragraph 172 of the NPPF sets out that planning permission should be refused for major development in AONBs, other than in exceptional circumstances. However, footnote 55 clarifies that, for the purposes of this, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated.

7.2.2 The works proposed solely relate to habitat improvement, associated with the existing function and purpose of the land as part of the nature reserve. Whilst the site occupies a large area, the plan provided shows that the works would be focussed on several areas of this, predominantly enhancing existing features. In particular, the works will involve the creation of bunds along two sides, the increase in depth of the existing pool, the creation of an island feature within the pool and the installation of a sluice to control the water levels within this area. Given the nature scale and purpose of the works, it is considered that they would not constitute 'major development' for the purpose of paragraph 172 of the NPPF and are considered to be acceptable in principle in this location.

7.3 Landscape and visual impact

7.3.1 The site is low lying and predominantly contains reed bed habitat, with small areas of shrubs and a pond in the centre connecting with the wider water network. It abuts existing wetland habitat at the reserve along the northeast, northwest and southwest boundaries. Adjacent to the southeast boundary is agricultural land, beyond which is woodland that is partly ancient and semi-natural. On the north west edge of part of this wooded area is a public footpath.

7.3.2 The Arnside and Silverdale AONB Landscape Character Assessment identifies the landscape character of the site as Lowland Moss, sub category C2: Leighton Moss and Barrow Scout. This sets out the key values as:

- Diverse landscape of low lying rushy farmland used for pasture, reeds along ditches, with hedges and wet woodland, and some mosses with areas of open water;
- Open views and sunsets over varied landscape;
- Marsh and wetland habitats attract a diversity of wildlife, including birds, otters, red deer;
- Seasonality is visible in changing colours in the landscape, the variable presence or absence of water across low lying areas prone to flooding, and wildlife phenomena; and
- Variety of access opportunities and a visitor facility at Leighton Moss.

- 7.3.3 As set out above, the proposal involves the alteration of land levels to create bunds and features, including an island and a deeper pool. A general plan has been provided to show the existing and proposed features within the site, in addition to more detailed level plans and sections. These show that there would not be significant increases in levels, in particular relation to existing levels adjacent to the site and would general be focussed around existing features. Existing land levels across the site slightly vary, although these cannot be easily discerned due to the presence of vegetation, in particular reeds. On the basis of the information provided and the existing character of the site, it is considered that there would be not be a detrimental impact on the character and appearance of the landscape, and the features which are proposed to be created or enhanced are already characteristic of this area.
- 7.3.4 The most likely visual impacts would be during and immediately after the works have been undertaken as a result of the removal of vegetation. Policy AS02 of the Arnside and Silverdale AONB DPD sets out that proposals should include a landscape assessment and the level of detail would be proportionate to the scale of the proposal and level of impact on the landscape. An assessment has been provided with the application. In relation to this particular issue the report sets out that revegetation of any bare ground, for example on the tops of the new bunds, will occur naturally and the areas will be totally revegetated within a few months. No remedial works will be needed as the revegetation will come from the existing soil seed bank and/or adjacent seed/plant sources within the reserve. It goes on to say that, the rest of the working area will be open water, ditches and reedbed so will remain visually coherent with the rest of the reserve as soon as the machines are no longer present, and the water levels rise. The temporary bare ground areas on the bund top and any higher points (less than 1m relative) will not be visible from adjacent footpaths or access points due to the surrounding tall reed vegetation. It also emphasises that small patches of bare ground within a wetland mosaic such as Leighton Moss are desirable as they offer habitat for invertebrates and allow growth of pioneer plant species that are adapted to colonising areas of bare ground.
- 7.3.5 The project involves the installation of a new sluice to control water levels within the newly created cell. The sluice is small, less than 2m across at ground level and will be keyed into the bund. The sluice chamber and wing walls will be precast concrete with a steel tilting weir installed within the sluice chamber. The entire structure is small and will not exceed the height of the new bund. The location and height of the sluice mean it will not be visible from accessible viewpoints and will be screened by surrounding vegetation in the same manner as the clay bund.
- 7.3.6 Overall it is considered that the proposal will not have a detrimental impact on the character and appearance of the Arnside and Silverdale AONB. The works are based around existing features within the reserve and are in keeping with the landscape character. There may be some minor visual impacts, from more distant and elevated views, during and immediately after the works. However, these impacts should be removed once revegetation occurs.

7.4 Ecological Impacts

- 7.4.1 Leighton Moss is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar Site, highlighting its particular ornithological importance. The site is also functionally linked to Morecambe Bay, located approximately 550 metres to the southwest, which is designated as a SSSI, SPA, Special Area of Conservation (SAC) and Ramsar Site. The submission sets out that Leighton Moss reedbed is a valuable and rare fragment of once widespread reedbed and early transitional wetland habitat which supports a range of nationally and internationally protected wildlife, most notably species of bird. Breeding bird species such as bittern, bearded tit, marsh harrier, water rail, spotted crane and a suite of warbler species are present on site and primary considerations for the RSPB's management of the site.
- 7.4.2 The development would create a hydrologically independent cell within the reedbed, allowing an early successional stage of wetland habitat with deeper ditches and pool features. The intention of the proposal is to improve the habitat for Bittern. The creation of new ditches, scrapes and wet features within the site, in combination with better control over water levels throughout the season, will improve the quality and extent of habitat for European eel, a primary prey source for bittern.
- 7.4.3 The Local Planning Authority must consider the requirement for a Habitats Regulations Assessment to assess the impacts of the proposals on the European Designated Sites. Article 6(3) of the European Habitats Directive dealing with the conservation of European protected sites states that: *"Any plan or project not directly connected with or necessary to the management of the site but likely to have a*

significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives". An ecological appraisal has been submitted with the application. As an appendix to this, a shadow Habitats Regulations Assessment has been submitted. This reaches a conclusion that the proposed works are necessary for the management of the SPA. This view is shared by Natural England and therefore no further assessment under the Habitats Regulations is required. Natural England has raised no objection to the proposals and have set out that the works are necessary for the management of breeding bittern (a SPA and Ramsar feature) and will create a hydrologically independent area where water levels can be easily manipulated to create a larger area of 'wet reed' habitat for bittern to feed and nest in. They have also advised that the proposed development will not damage or destroy the interest features for which the site has been notified as a SSSI.

- 7.4.4 Natural England has requested a condition to ensure that the works will be only be undertaken between July and the end of October. The submission sets out that the works are likely to take a maximum of 8 weeks to complete and are projected to take place between July and August 2020. However, this is likely to be influenced by ground conditions, dictated by rainfall quantities, and therefore the period of the works may extend into September and October. This may overlap into the breeding bird season and Natural England has also requested that a breeding bird survey is undertaken, and agreed in writing, to ensure that no SPA/Ramsar breeding birds are nesting in or adjacent to the site, before the works commence.
- 7.4.5 Greater Manchester Ecological Unit (GMEU) has provided advice in relation to other ecological considerations in relation to the proposal, including protected species. In addition to providing a suitable habitat for a number of breeding birds, a number of schedule 1 species are also known to breed on the site including marsh harrier, cettis warbler and bearded tit. These species receive additional protection from disturbance whilst breeding, and therefore work on the site will be heavily constrained should Schedule 1 species be recorded breeding during the works. The submission proposes intensive breeding bird surveys for spring/summer 2020 to map the locations of nesting birds in the area, and regular checks during the work are proposed. The timetable of the work will be dependent on the findings of the updated breeding bird survey, and this is acknowledged within the ecology report. Mitigation measures to manage the reed bed to reduce the likelihood of nesting birds utilising the site prior to works commencing are suggested, and GMEU has advised that these be undertaken. If Schedule 1 species are found to be breeding, work must be timed until after the young have fledged or sufficient mitigation (such as buffer zones) implemented to ensure no disturbance of the nest takes place.
- 7.4.6 Otter are known to be present at Leighton Moss and the survey of the site found evidence of otters using the area (spraint), but no evidence of a couch or holt. Given the presence of otters and suitable habitat on the reserve, they are likely to be present on the site and possibly using the area while the work is being undertaken. Given that the day to day management of the site involves similar activities to those proposed in the application, albeit on a smaller scale, otter are habituated into management activities on the site. Equally the wardens and site workers are aware of the legislation protecting otters, signs of otters being present on the site and how to reduce disturbance of them. However, there is still a risk that otters will be disturbed as a result of the proposed works, and Reasonable Avoidance Measures have been included within the submitted report. GMEU has advised that, if these are followed, there should not be a negative impact on otter during the works, and in the long term the works will improve the site for otter, increasing the food source and improving the habitat for them.
- 7.4.7 In relation to Great Crested Newt, the habitat on the site is not optimal for this species, becoming largely terrestrial in the summer months as the succession of the reedbed has taken place. Survey data from Leighton Moss confirms a high level of predators (fish and water fowl) present on the site which further reduces the suitability of the site for great crested newts. The proposed work will have an overall benefit to amphibians in the area, creating areas of permanent open water for displaying and breeding. GMEU has advised that it is not necessary to require great crested newt surveys as part of this application.
- 7.4.8 Other species (such as water vole, fish etc.) have been surveyed for and considered within the ecological information submitted with the application. No evidence of other protected species were found/identified as being negatively impacted as a result of the proposals. GMEU has advised that an informative should be used to make the applicant aware of the laws which are in place to protect biodiversity. If at any time any protected species are discovered on site and are likely to be negatively

impacted upon as a result of the proposed development, work should cease and an ecologist consulted for advice.

- 7.4.9 Overall, subject to appropriate mitigation being put in place, it is considered that the development would not have a detrimental impact on biodiversity and should provide improvements for various species, including bittern.

7.5 Flood Risk

- 7.5.1 The site is located within Flood Zone 3, so a flood risk assessment has been submitted with the application. Whilst a neighbouring land owner has raised some concerns in relation to potential flooding as a result of the proposal, the Environment Agency have advised that the development would be safe, it would not be at an unacceptable risk of flooding and would not exacerbate flood risk elsewhere.

- 7.5.2 Whilst the development is small in scale and principally involves alterations to land levels, it does not appear to be exempt from the Sequential Test approach, as set out in the NPPF. The aim of this is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, flood risk vulnerability of land uses and reasonably available sites in Flood Zone 2 should be considered and then Flood Zone 3, applying the Exception Test if required. In terms of the flood risk vulnerability, the proposal is considered to be a water compatible use, being for nature conservation, and is therefore appropriate development in Flood Zone 3, and no exception test is required. The proposal relates to the improvement of habitat within the reserve by creating an independent hydrological cell. Therefore there are no other locations at a lower probability of flooding where the development could be located and it is considered that the sequential test is passed.

7.6 Impacts on Heritage Assets

- 7.6.1 A Heritage Statement has been submitted with the application due to the potential impacts on buried archaeology and County Archaeology has provided comments in relation to this. They have advised that the most likely location for prehistoric activity around wetlands, such as the mosses of the Leighton valley, is along the edges where the rising ground of the limestone hills meets the edge of the wetlands. The probability is that any occupation around the edge of the mosses is dated to the later end of the Mesolithic period and into the Neolithic (about 3,500 to 4500 BC) as was demonstrated by a small excavation on the edge of Storrs Moss in the 1960s. There is also a possibility of traces of activity reaching out into the wetlands, structures and timber trackways being well known from wetlands in various areas of the UK, although so far very few from Lancashire. Mitigation measures have been proposed in the report for inspections for archaeological deposits, recording of finds and archaeological recording if required. County Archaeology has advised that the mitigation proposed seems appropriate for the scale of work, the areas affected and the known archaeological potential of the moss. However, they have requested that this is regularised and have advised that a condition requiring a Written Scheme of Investigation is produced and agreed before works commence. This approach is reasonable and ensures that the mitigation can be adequately controlled.

8.0 Planning Obligations

- 8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

- 9.1 The proposal will provide improved habitat for a number of species, in particular Bittern which is a species of European nature conservation importance. Given the nature, scale and extent of the proposed works and the surrounding landscape, it is considered that there would not be a detrimental impact on ecology, including European designated sites, the character and appearance of the AONB, flood risk and archaeology, subject to appropriate mitigation secured by condition. The development is therefore considered to be acceptable.

Recommendation

That Planning Permission Prior **BE GRANTED** subject to the following conditions:

1. Standard three year timescale
2. Approved plans
3. Archaeological Watching Brief
4. Ecological mitigation – timing of works informed by breeding bird surveys; otter mitigation

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

In accordance with the above legislation, Lancaster City Council has 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 made 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.

Background Papers

None