

Agenda Item	A7
Application Number	22/01009/FUL
Proposal	Partial demolition of the current fish pass, construction a new permanent fish pass and creation of temporary access track and site compound
Application site	Skerton Weir River Lune Lancaster Lancashire
Applicant	Mr Tim Pitt
Agent	
Case Officer	Mrs Petra Williams
Departure	No
Summary of Recommendation	Approval

(i) **Procedural Matters**

This form of development would normally be determined under the Council's Scheme of Delegation. However, part of the site is within the ownership of Lancaster City Council and as such the application is referred to the Planning Regulatory Committee.

1.0 Application Site and Setting

1.1 The site that forms the subject of this application is an existing fish pass at Skerton weir located within the River Lune between Halton Road and Lansil Industrial Estate. Skerton weir is a large weir at the tidal limit of the River Lune. Halton Road to the east is residential in character and Lansil Industrial Estate contains a range of employment buildings including Standfast Barracks which is grade II listed. The John O'Gaunt rowing club is located on the west bank of the river immediately upstream of Skerton Weir.

1.2 The River Lune is designated as a Biological Heritage Site. Access to the site to facilitate the works is within a Marine Conservation Zone (MCZ). The site is within Flood Zones 2 and 3 and SFRA Flood zone 3b. A Public Right of Way (FP 14) and cycle route runs along the eastern bank of the river. The eastern bank is also designated as Open Space as is part of the western bank. The application site is within a Mineral Safeguard Area. The proposal is within 3.4km of Morecambe Bay and Duddon Estuary SPA, Morecambe Bay Ramsar site, Morecambe Bay SAC and Lune Estuary SSSI.

2.0 Proposal

2.1 The application has been submitted on behalf of the Lune Rivers Trust and proposes the partial demolition of the existing fish pass and the construction a new permanent fish pass. Proposals include the creation of a temporary access track and site compound to facilitate the works and it is this area of the site which is land within the ownership of Lancaster City Council. The compound

and site access will be located on the western side of the river just off Main Street, close to the junction with Halton Road and Aldrens Lane.

2.2 The new fish pass will be constructed within the footprint of the existing fish pass. The proposals include the infilling of sections of the weir and the construction of a fibre reinforced concrete slab to accommodate new baffles. Perturbation boulders will be introduced between precast concrete baffle walls.

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
22/01015/EIR	Screening request for the partial demolition of the current fish pass, construction a new permanent fish pass and creation of temporary access track and site compound	ES not required
20/01169/FUL	Partial demolition of the current fish pass, construction a new permanent fish pass and creation of temporary access track	Withdrawn
19/01012/EIR	Screening opinion for fish passage improvement works	ES not required
1/76/0030SU	Reconstruction of Skerton Weir	Permitted

4.0 Consultation Responses

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

Consultee	Response
Greater Manchester Ecology Unit (GMEU)	No objections - There are a wide range of risks to the natural environment associated with this development proposal. However, all are resolvable via condition and the overall scheme should enhance the ecological potential of the River Lune.
Natural England	No objections – Recommends conditions in respect of a Construction Environment Management Plan and implementation of a Precautionary Method of Working
Marine Management Organisation (MMO)	Works taking place below the mean high-water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.
Environment Agency	No objection - We are currently in the process of determining a Flood Risk Activity Permit (FRAP), referenced EPR/DB3157SR for these works.
United Utilities	Advice – United Utilities will not permit any development to occur within the easement width of our infrastructure. United Utilities will not allow building over or in close proximity to a water main. It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the development proposed.
Tree Officer	Neither objects nor supports the scheme - Based on the figures provided within the AIA, four individual trees (T10-12, T17) and three groups (G1, G3, G4) will require felling, along with part of G5 and the pruning of three other individual trees. Suggests consideration to a revised access route in order to reduce tree losses and the protection of T17 within the site compound.
County Archaeology	No objections - Recommends a condition relating to an archaeological watching brief.
Environmental Health Engineers	No objections
	No objections - Recommends a construction management plan in order to ensure that infrastructure and assets within the area of the access track and site compound are not impacted unduly.
County Highways	No comments received

Property Services	The applicant has spoken to the City Council regarding the possibility of siting a works compound on the land at the junction of Mainway / Aldrens Road. Any use of the land would be subject to an occupational licence being agreed between the two parties.
Public Realm	No comments received
Public Rights of Way	No comments received
Lead Local Flood Authority (LLFA)	No comments to make on this application
Sport England	The proposed development does not fall within either our statutory remit

4.2 The following responses have been received from members of the public:
One item of support has been received from a member of a local canoe club which makes the following points:

- Any changes to the Skerton weir structure that both encourages wildlife to thrive and migrate but also to reduces the risk to life are welcomed.
- The current structure is extremely hazardous to water users and from a personal perspective if the new layout can provide safer passage and a play spot for paddle sports then all the better.

Two items of objection have been received, one from Lancaster Rowing Development Group and one from Lancaster John O'Gaunt Rowing Club which raise the following points:

- John O'Gaunt Rowing Club has no objection to the new Fish Pass once it is completed, as we do not expect it to change the current river flow/level characteristics significantly. However, it appears that no consideration has been given to the influence of the construction works on normal height levels and flows of the river.
- Lancaster Schools' Rowing Association and John O'Gaunt Rowing Club boat from the west bank. From frequent use and experience of the river under all flow regimes, we know that an indicated level of 800mm on the Environment Agency gauge at Skerton Weir corresponds to the onset of overtopping of the East and West weir crests. Water levels above this cover the landing stages at JOG and LSRA thus interferes with rowing.
- During the construction works John O'Gaunt Rowing Club expects the normal river level to be at least between 5mm and 55mm above the Club landing stage and up to 50mm above the main weir crest.
- During the proposed construction works, flow over the fish ladder will be arrested and as a consequence even at low river flow rates, the basin will fill to the weir crest, i.e. to a minimum of 800mm on the Environment Agency gauge.

5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle in respect of Open Space
- Ecology
- Trees
- Flood Risk
- Heritage

5.2 **Principle in respect of Open Space** - NPPF Section: 2 (Achieving Sustainable Development), Section 8: (Open space and recreation); Development Management (DM) DPD Policy DM27 (Open Spaces, Sports and Recreational Facilities); Strategic Policies and Land Allocations DPD Policies SP1 (Presumption in Favour of Sustainable Development) and SC3 (Open Space, Recreation and Leisure)

5.2.1 The NPPF (paragraph 102) highlights the importance of access to a network of high-quality open spaces and opportunities for sport and physical activity for the health and well-being of communities. Existing Open Space should not be built on unless the loss resulting from the proposed development would be replaced by equivalent or better provision or the development is for alternative sports and

recreational provision. Policy SC3 sets out that existing Open Space and recreation facilities have been identified on the Local Plan Policies Map. These sites, identified for their recreation will be protected from inappropriate development in accordance with relevant national and local planning policy. Policy DM27 seeks to protect and enhance existing designated Open Spaces.

5.2.2 The site compound and part of the site access will be within an area designated as Open Space (Cow Shard Natural/semi-natural Greenspace). The compound will include a site office as well as welfare and laydown facilities. The temporary access track will run from the compound and will be constructed along a route through a wooded embankment area to the southern edge of the weir.

5.2.3 The compound and part of the track will result in the loss of an area of Open Space, approximately 30 metres by 40 metres and part of this area was recently used as a site compound during the construction of the flood defence works. The fish pass improvement works are expected to take approximately 5 months and on completion the temporary access track and site compound will be removed and the area of Open Space will once again be accessible. This temporary loss will be balanced against the benefits of the scheme and site restoration/replanting would be a condition of approval.

5.3 **Ecology** - NPPF Section: 15 (Conserving and enhancing the natural environment); Development Management DPD Policy DM44 (The Protection and Enhancement of Biodiversity; Strategic Policies and Land Allocations DPD Policies SP8 Protecting the Natural Environment EN7 (Environmentally Important Areas)

5.3.1 Strategic policies SP8 and EN7 both recognise the importance and value of biodiversity within the district and expects development proposals to protect, maintain and enhance biodiversity. Policy DM44 sets out that the Council will support proposals where the primary objective is to conserve or enhance biodiversity or where development proposals provide better opportunities to secure management for the long-term biodiversity. The policy goes on to advise that proposals should protect and enhance biodiversity, to minimise both direct and indirect impacts. Developments affecting Environmentally Sensitive Sites and Species will not be permitted where there is an adverse effect on priority species and priority habitat or sites of a local or regional importance for biodiversity unless the benefits of the proposal outweigh the potential adverse effects. Where adverse effects are unavoidable a development proposal will be required to demonstrate that:

- I. Adverse effects are minimised;
- II. Provision is made for mitigation and compensation measures, such as on-site landscape works, off-site habitat creation, species relocation and ongoing management as appropriate, such that there is a clear net gain for biodiversity; and
- III. The biodiversity value of the site is not compromised, both on its own and as part of the wider network of sites.

5.3.2 As the weir is at the tidal limit of the River Lune it is the first barrier that adult fish encounter when migrating into the Lune to spawn. Equally it is the last barrier that juvenile fish have to negotiate when migrating out to sea. The current fish pass, installed in the 70's is not very efficient and as such is not facilitating the easy migration of fish. The upgrading of the fish pass seeks to make it easier for fish to migrate in both directions.

5.3.3 The access track to the fish pass will require engineering works to create a stable, safe access road. This will require the importation of significant quantities of large well washed stone, to reduce the release of sediment into the river. These stones will be removed following the completion of the fish pass works. The proposal will involve the pump out and rescue of fish within the development area. This will be carried out using vacuum pumps located on a working platform, pumping water for the fish pass discharging via a settlement tank back into the river downstream of the pass. A temporary fabric dam will be installed around the entrance of the fish pass in addition to a temporary 600mm by-pass flume to enable downstream juvenile fish passage. The by-pass flume will have a geotextile base to prevent damage to the riverbed and facilitate easy removal. An eel pass will also be created to part of the eastern side of the upper pool and the eastern side of the lower pool.

5.3.4 The fish pass improvements involve the installation of precast concrete baffles which will be carried out in stages with the fabric dam being re-configured during the process to divert flows through the main fish pass. Once the works to the fish pass are complete, the fabric dam, temporary access track and site compound will be re-moved and riverbanks will be reformed to their original profile.

- 5.3.5 The works will require a permit under separate legislation from the Environment Agency. This permit will consider matters including the management of fish during construction, biosecurity measures for invasive species and mitigation strategies to prevent pollution and siltation. The Environment Agency has reviewed the plans and supporting information in respect of this planning application and has raised no objections.
- 5.3.6 The proposed works relating to the temporary access track and the most southerly part of the weir are sited within the Wyre-Lune Marine Conservation Zone (MCZ), which is designated for smelt. Smelt are known to congregate in large shoals in lower estuaries and migrate into freshwater where they spawn in spring. Estuaries such as the Wyre-Lune therefore provide critical habitats required to complete smelt lifecycles, including for feeding and post-larval development. Smelt is an indicator of ecosystem health, being very sensitive to a broad range of environmental degradations, including overfishing, loss of spawning habitat, blockage to migration and water quality impacts. The Marine Management Organisation (MMO) has undertaken an MCZ Assessment for this proposal to which Natural England had no objection. A Marine Licence from the MMO in respect of the proposal has been applied for separately to this planning application.
- 5.3.7 The proposal is 3.4km upstream of Morecambe Bay and Duddon Estuary SPA, Morecambe Bay Ramsar site, Morecambe Bay SAC and Lune Estuary SSSI. The site is also within the River Lune Biological Heritage Site which is a non-statutory designated site for nature conservation. A Habitats Regulations Assessment and Appropriate Assessment has been undertaken as part of the consideration of this application. The HRA/AA has been considered by Natural England and found to be acceptable. Natural England considers the development will have no adverse impacts on designated sites, subject to conditions relating to a Construction Environment Management Plan and the implementation of a Precautionary Method of Working.
- 5.3.8 Ecological considerations are set out within the submitted Biodiversity Report which has been reviewed by the Greater Manchester Ecology Unit (GMEU). The Biodiversity Report considers badger, otter, water vole, bats, amphibians, birds, reptiles and fish. The Biodiversity Report states that the risk of encountering badger within the working area is considered negligible. No otter holts or couches were discovered within 100m of the proposed works however, as otter are known to use the River Lune for commuting and feeding precautionary working methods are set out within the Biodiversity Report. No evidence of water vole was noted in the vicinity of the works during the survey no potential water vole habitat will be impacted by the works as no habitat is present that may support water vole on site. The works will result in the loss of semi-mature trees with 'negligible bat roosting potential. The Biodiversity Report sets out that the risks of encountering amphibians are considered to be negligible in respect of the proposal. To prevent any impacts upon breeding birds any removal of breeding bird habitat should take place outside of the breeding bird season (March until September). If this is not possible the Biodiversity Report advises that a suitably experienced ornithologist should check for the presence of nests along the route. No evidence of reptiles was found and the working area provides no optimal basking habitat for this species. The chance of construction works impacting on fish and lamprey during are considered to be high and appropriate mitigation is set out within the Biodiversity Report. This mitigation would involve the footprint of the causeway being electro-fished by a suitably qualified contractor immediately prior to the construction works to remove any lamprey present and other fish species which would be affected.
- 5.3.9 The Biodiversity Report acknowledges the presence of invasive species (Giant hogweed, Japanese Knotweed and Himalayan balsam) in the vicinity of parts of the application site and sets out working practices to be adopted by contractors and site operatives in order to prevent the disturbance and spread of these species.
- 5.3.10 GMEU have raised no objections to the proposal and has advised that post-development the overall impact is likely to be positive, owing to improved fish passage, providing that all temporary access works are removed, restored and enhanced. As such it is considered that the scheme will accord with the requirements of policy DM44 as well as section of the NPPF in terms of ecological impacts.
- 5.4 **Trees** - NPPF Section: 15 (Conserving and enhancing the natural environment); Development Management DPD policies DM44 Protection and Enhancement of Biodiversity and DM45 Protection of Trees, Hedgerows and Woodland) Strategic Policies and Land Allocations DPD Policy SP8 Protecting the Natural Environment

- 5.4.1 Policy DM44 states that development proposals should protect and enhance biodiversity and minimise both direct and indirect impacts. Policy DM45 states that new development should positively incorporate existing trees and hedgerows and encourages appropriate opportunities to encourage new planting of new trees, hedgerows and woodlands.
- 5.4.2 The submitted Arboricultural Impact Assessment (AIA) identifies 17 individual trees and eight groups of trees on the Tree Constraints Plan (TCP) and Tree Impact Plan (TIP) with these trees ranging from young to post-mature in age. None of these trees are identified as 'high quality' (category A) with only two being identified as 'moderate quality' (category B) with these being T2 and T17. Ten trees and five groups are identified as 'low quality' (category C). Finally, five trees and three groups are identified as 'unsuitable for retention' (category U) and should be removed for sound management reasons regardless of site proposals.
- 5.4.3 Although the proposed access route has been designed to utilise existing gaps between trees in order to minimise impacts as far as is practicable, some tree clearance and local reprofiling will be required prior to the construction of this track. The AIA sets out that construction of the proposed access track will require the removal of one moderate quality tree (T17 - category B), three low quality trees, three low quality groups and part of one further low-quality group (category C). As highlighted above five trees and three groups are considered unsuitable for retention, both in the context of the existing site and the proposed development. The AIA also recommends that pruning works are required to the western side of the canopies of trees T3, T4 and T5 in order to prevent tree canopy damage during the proposed construction works.
- 5.4.4 The Tree Officer has advised that with the exception of T17, the trees proposed for removal to accommodate the access track are of low quality but has asked for consideration to be given to a revised access route in order to reduce tree losses as well as the protection of T17 within the site compound. However, the applicant has advised that the proposed route of the access track was chosen specifically due to level differences between the bank and the riverbed and to reduce to a minimum the amount of track that needs to be constructed in the riverbed. With regard to T17, the applicant has advised that the area of land available for the site compound is already limited in relation to the quantities of materials and size of plant needed to carry out the works. Consequently, the retention of T17, and the associated root protection zone, would reduce the area of the site compound to an extent that it would not be viable.
- 5.4.5 Although the tree loss associated with the proposal is regrettable these losses must be weighed against the overall ecological benefits of the scheme. As acknowledged within the submitted AIA the site can accommodate new tree planting following completion and removal of the access and site compound. The Council's tree replacement policy expects a 3:1 ratio and as the proposed losses relate mostly to low quality trees there would ultimately be an overall enhancement in respect of quality and tree numbers on the site. In order to ensure adequate protection of retained trees (as stated within the AIA), the Tree Officer has requested a condition for a detailed Arboricultural Method Statement and Tree Protection Plan.
- 5.5 **Flood Risk - NPPF section: 14 (Meeting the challenge of climate change, flooding and coastal change); Development Management (DM) DPD policies DM29 (Key Design Principles) and DM33 (Development and Flood Risk)**
- 5.5.1 The proposed development area (both temporary and permanent elements) lies within Flood Zone 3 which is defined as having a high probability of flooding, during more frequent events than 1in100 years from the river, and/or 1in200 year tidal flooding events. The application is supported by a Flood Modelling Study to demonstrate the proposals would not increase the risk of flooding elsewhere.
- 5.5.2 The temporary access track will bridge the existing channel that runs from the southern end of the weir to the main river. Precast concrete box culvert units will be used to bridge this channel leaving a clear opening of 7.00m wide and 1.0m high for flows that breach the weir south of the fish pass.
- 5.5.3 In order to facilitate the works a temporary flow diversion structure (fabric dam referred to in para. 5.3.3 of this report) will be installed to divert river flows (other than flood waters) over the relief weirs. The height of this structure will be 600mm above existing weir crest level and will isolate the fish

pass from river. The Flood Modelling Study sets out that there will be no significant increase in flood risk as a result of the temporary works when compared to the baseline. In general, the change in peak water levels is no greater than 0.02m across the entire reach, although some small pockets of greater flood risk are noted in the 5yr, 10yr and 50yr events on the left bank of the river upstream of the site. Given the temporary nature of the works and low likelihood of a flood event happening during construction, the proposed works are considered appropriate from a flood risk perspective.

5.5.4 Concerns from local rowing clubs are noted but the Council's Drainage Engineer has advised that their fears that the construction process will result in increased water levels around the landing stages are unfounded. During the construction process river flows will continue around the area of fish pass works over the relief weir to the east side and down the main river and over the relief weir to the west, down the existing channel at the weir toe, under the temporary culverted bridge, and into the main river. Furthermore, the Environment Agency has raised no objections to the scheme and given the concerns relate to the construction phase, the issues whilst noted, are not considered by themselves to warrant a refusal of consent alone.

5.6 **Heritage – NPPF Section 16 (Conserving and enhancing the historic environment); Development Management (DM) DPD Policies DM29 (Key Design Principles) and DM39 (The Setting of Designated Heritage Assets)**

5.6.1 The permanent elements of the proposal (fish pass) relates to the eastern part of the river which is 180m to the north of Standfast Barracks which is grade II listed. However, the visual impacts of the proposed works are considered to be relatively minimal in the context of the setting of the listed building which is screened from the site by intervening tree screening along the eastern bank.

5.6.2 A weir is believed to have existed at Skerton since at least the 13th Century. The mid-19th century Ordnance Survey 1:10560 maps shows that "Skerton Salmon Fishery" was still operational well into the 19th century. The County Archaeologist advises that medieval "fisheries" may have been in the form of timber weirs with fish traps set on posts across gaps in the weirs into which the current would channel fish. There are no records of material remains of the medieval and later weirs (prior to the current arrangement being built) but timber structures have been observed elsewhere in the river as it passes though Lancaster so there is a possibility that there are features relating to the earlier weirs surviving in the riverbed and below the existing structures. As such the County Archaeologist has requested a condition relating to an archaeological watching brief during the stages of construction work which will involve removal of weir structures and excavation into the former riverbed.

6.0 Conclusion and Planning Balance

6.1 Although there will be disruption to the accessibility of the Open Space during the construction period, the timescale relating to this is expected to be limited. There will be temporary disruptive impacts during construction and the proposal will result a loss of trees. However, this must be balanced against the benefits that would be secured in the long term in relation to fish migration in addition to the enhancements of improved tree replacement planting. Subject to the imposition of appropriate conditions, including those relating to ecological mitigation during construction, landscaping, site restoration and tree replacement the application is recommended for approval.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Standard three-year timescale for commencement	Control
2	In accordance with approved plans	Control
3	Construction and Environmental Management Plan	Pre-commencement
4	Precautionary Method of Working including a biosecurity measures method statement	Pre-commencement
5	Tree Protection Plan	Pre-commencement

6	Arboricultural Method Statement	Pre-commencement
7	Landscaping/site restoration including tree replacement	Pre-commencement
8	Archaeological watching brief	Pre-commencement
9	Ecological Mitigation Measures	Control
10	Method of Works	Control
11	Skerton Temporary Works Flood Modelling Plan	Control

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

Lancaster City Council has made the decision 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.

Background Papers

None