

Development Control Committee
Meeting to be held on 19 October 2022

Electoral Division affected:
Lancaster Rural North

Lancaster City: application number LCC/2021/0006

Extension of existing leisure fishery, including change of use of existing agricultural land; excavation/formation of two new lakes; formation of a new bund/embankment to the west boundary adjacent to the M6, associated formation of site access roads/paths and landscaping; improvements to existing site access point at north-east corner of the site; installation/extension of otter exclusion fence to enclose new site

Land to the north of Clear Water Fisheries, Kellet Lane, Over Kellet, Carnforth

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Brief Summary

Application – Extension of existing leisure fishery, including: change of use of existing agricultural land; excavation/formation of two new lakes; formation of a new bund/embankment to the west boundary adjacent to the M6, associated formation of site access roads/paths and landscaping; improvements to existing site access point at north-east corner of the site; installation/extension of otter exclusion fence to enclose new site.

Land to the north of Clear Water Fisheries, Kellet Lane, Over Kellet, Carnforth.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling screening bund construction, fishing lake construction, landscaping implementation and management, highway safety, ecological mitigation measures, arboricultural matters and surface water drainage.

Applicant's Proposal

The proposal seeks to extend an existing commercial angling facility into a field to the north of the existing facility and comprises a number of elements:

- Formation of two new lakes comprising: a landscaped lake to provide an extended fishing facility for anglers measuring approximately 290m by 100m, with a maximum depth of 2.5m and a new 'match lake' to provide new facilities for competition fishing which would be designed and constructed to regulation dimensions measuring 100m by 22.5m. Both lakes would have a maximum depth of 2.5m. The construction of the lakes would require the excavation of approximately 63,500m³ of materials. Approximately 17,000m³ of the excavated material will be utilised on site with the remaining 46,500m³ being removed from the site.
- Extension of the existing bund along the western boundary of the site. This would extend the existing bund northwards by approximately 260m. The maximum width would be approximately 36m, the height of the bund would be 5m. The bund would be formed using materials excavated from the lakes.
- Extension of the existing 1.8m high otter exclusion fence to protect the perimeter of the new site.
- Construction of two temporary site access points, new site access paths and a planting and landscaping scheme.

The application is accompanied by a flood risk assessment, a preliminary ecological appraisal, a geotechnical report, a drainage strategy and an arboricultural impact assessment.

Description and Location of Site

The site measures approximately 8 hectares and is located within an area of open countryside, approximately 350 metres to the south-west of Borwick, and 1.6 kilometres to the north-east of Carnforth. The western boundary of the site is formed by the M6 motorway with the existing fishery to the south with Kellet Lane to the east from where access is gained. The site measures approximately 305m by 325m (with the proposed bund extending a further 78m north on land that is outside the ownership of the applicant).

The existing fishery comprises a number of fishing lakes, set in grassland with scattered stands of trees, with a timber café and accommodation building and car park at the main site entrance off Kellet Lane. The application site presently comprises an area of agricultural grassland immediately to the north of the existing fishery.

The nearest residential properties are located to the north of the application site, on the eastern side of Kellet Lane where it forms a junction with Borwick Lane. There are 16 properties located in a small grouping at this junction (Borwick Mews). The closest property is Manor Farm which would be approximately 8m from the site boundary (separated by Kellet Lane). However the distance to the fishing lake itself would be approximately 95m.



Background

The existing fishing lakes off Kellet Lane were formed by the extraction of sand and gravel during the 1960s. The site was subsequently abandoned and left undeveloped, allowing water bodies to form. As part of a complex of water bodies in the wider area, the site developed significant wildfowl interest and qualified as a Biological Heritage Site (a locally designated site) until 2007, when it was deemed to no longer qualify due to a reduction in ornithological interest attributed to increased disturbance from the operational fishery. The site has an extensive planning history and the following permissions have been granted for works to the fishing lake and the creation of a bund along its western boundary adjacent to the M6:

Permission 01/98/0019 - Creation of landscaped bund, minor extension and division of existing lake. Approved 2 October 2002

Permission 01/05/1144 - Creation of landscaped bund along western boundary of Borwick Lake. Approved 14 April 2006

Permission 01/07/0008 - Provision of alternative access route to facilitate construction of bund. Approved 5 March 2007

Permission 01/09/0466 - Renewal of planning permission to allow completion of landscaped bund as permitted by planning permission 01/05/144. Approved 17 July 2009

Permission 01/12/0890 - Application to allow for the completion of landscaped bund to the dimensions and contours permitted by planning permission 01/05/1144 and 01/09/0466. Approved 10 December 2012

Permission LCC/2014/0106 - Non-compliance with condition 1 of planning permission 01/12/0890 to allow an additional 18 months for the completion of the bund with a further period of 6 months for restoration. Approved 15 September 2014

Permission LCC/2017/0024 - Excavation and earthworks to reconfigure the existing lakes including removal, construction and extension of bunds including completion of the embankment adjacent to the M6 to the same dimensions as approved under planning permission 1/12/0890. The planning permission is subject to a Section 106 agreement that provides for the ecological and angling management of the site for 15 years. Approved, subject to 106 agreement, 30 October 2018

Lancaster City Council have also granted a number of permissions on this site for fishing facilities including the café building

Planning Policy

National Planning Policy Framework (NPPF): Paragraphs 8 – 14, 84 – 85, 126 – 136, 152 – 169 and 179 - 182 are relevant in relation to the presumption in favour of sustainable development; supporting the rural economy, the need for good design, climate change and flood risk and conserving and enhancing the natural environment.



Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy NPPF1 - Presumption in Favour of Sustainable Development

Policy DM1 - Management of Waste and Extraction of Minerals

Policy DM2 – Development Management

Policy M2 – Safeguarding of mineral resources

Lancaster City Council Strategic Policies and Land Allocations Development Plan Document

Policy SP8: Protecting the natural environment

Policy EN3: The open countryside

Lancaster City Council Development Management Development Plan Document

Policy DM22: Leisure facilities and attractions

Policy DM33: Development and flood risk

Policy DM34: Surface water run-off and sustainable drainage

Policy DM44: The protection and enhancement of biodiversity

Policy DM46: Development and landscape impact

Policy DM47: Economic development in rural areas

Consultations

Lancaster City Council: Object to the proposals on the following grounds:

- Policy DM22 of the Review of the Development Management Development Plan Document (DPD) sets out that leisure facilities in rural locations may be supported where it has been demonstrated that a robust assessment has been undertaken that justifies a rural location. Policy DM47 sets out that development proposals in rural areas will be supported in principle where development is required for a new or existing outdoor sport and leisure facilities and where a rural location is needed. The Council accepts that the information provided by the applicant demonstrates that current demand cannot be met by the existing facilities and provides confidence that the expansion of the site to provide further facilities to meet this evidenced need could be justified.
- Policy DM46 states that development must be in scale and keeping with the landscape character and be appropriate to its surroundings in terms of siting, scale, massing, design, materials, external appearance and landscaping. In particular it states that consideration must be given to both the individual and cumulative impacts of a proposal. The Council considers that the presence of a significant engineered bund landform would erode the openness of the existing landscape. It is considered that the justification for this part of the development, to provide noise attenuation for the fishery, does not justify the identified landscape harm. Whilst the bund is proposed to extend from that already within the existing site (which is in itself visually harmful and out of character) and is intended to be landscaped and (in parts) feature curving undulations, the landform as a whole would be visually intrusive. Furthermore, the northern most portion (that within land outside the applicant's ownership) does not feature any form of undulation or curvature. This part of the bund extends 60 metres beyond the extent of the lake



expansion and is still within open field. The form and gradient of this section would result in a feature that is particularly alien and harmful.

- In respect of biodiversity the proposed ponds are considered to be relatively small and insufficient. No specific detail of the environmental value and future management of this biodiversity offer is provided. It should also be established that the presence of the ponds would not cause issues for the conveyance of drainage from the motorway side of the bund. The depth of the ponds should be clarified.
- In respect of the revised Arboricultural Impact Assessment further investigation should be carried out, in particular in respect of tree T14. This tree is a significant landscape feature, and it is only suggested that it is suffering from ash dieback. All tree losses should be justified and appropriately mitigated as part of the development. A fully detailed environmental management plan including new tree planting should be provided.

Borwick Parish Council: Confirm that they support the application.

Warton Parish Council: No comments received.

County Landscape Service: No comments received.

Jacobs UK Ltd (Ecology consultation): Confirm that they have no objections to the proposals. They recommend that a number of conditions are imposed to deal with the following matters:

- Hedgerows around the boundaries of the scheme should be retained and protected during construction. Trees should also be protected.
- Biodiversity net gain should be achieved as part of the application. In particular a detailed plan of the proposed wildlife ponds and management plan of the ponds should be provided.
- The best practice mitigation measures to protect notable/protected species are set out in the Preliminary Ecological Assessment should be implemented as part of the proposals.
- An invasive species management plan should be devised to ensure no further spread of Himalayan Balsam.

Environment Agency: Confirm that they have no objection to the proposals. They have reviewed the Flood Risk Assessment and are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed mitigation measures are implemented.

National Highways: Confirm that they do not object to the proposals and recommend that conditions be attached to the grant of any consent. They advise that if designed or formed incorrectly the bund may present a danger to the motorway in terms of potential for slope instability and/or downward pressure on the ground creating uplift of the motorway land. A number of conditions are recommended that seek additional details of the bund construction, drainage and future management so the development is not detrimental to the function of the motorway.



LCC Highways Development Control: No objection to the proposals, but make the following comments:

- A number of improvements to the proposed points of access from Kellet Lane are required (unless a one-way system is used).
- The proposed otter fence should be placed on the inside edge of an established boundary hedge line along Kellet Lane.
- They accept the applicant's premise that to restrict the number of vehicle movements during the extraction phase would unduly prolong this phase of the scheme to the detriment of neighbouring occupants.
- Consideration should be given to the route of the advisory national cycle network which uses Borwick Lane and Kellet Lane and the use of temporary signage.
- It is recommended that a condition be imposed that a series of joint surveys be carried out between the developer and planning authority (in conjunction with the highway authority) during the course of the development to determine the condition of the nearby roads and agree a routine maintenance regime.

Natural England: No comments received.

SUDS (Lead Local Flood Authority): Confirm that they do not object to the proposals, subject to the imposition of a condition requiring the development to be carried out in accordance with the principles set out in the submitted flood risk assessment and surface water drainage strategy.

County Councillor Phillippa Williamson (local member) asked for clarification on a number of matters, but no further comments have been received.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. No representations have been received.

Advice

The application is for the excavation of two new fishing lakes in order to extend an existing course fishing facility.

The land to the south of the application site is a former sand and gravel working area. Mineral extraction was completed in the 1960s leaving a large lake. In 2002 the County Council granted planning permission for the subdivision of the lake into a number of smaller waterbodies so that the site could be used as a commercial course fishery. At the time of the application, the site was designated as a Biological Heritage Site for its value for birds. A management plan was agreed as part of a Section 106 agreement to control the fishing activities in order to protect the bird interest on the site. Since 2007 however the site has no longer been designated as a biological heritage site and an embankment along the western boundary of the site, parallel to the M6 has been constructed from imported inert waste. This has been completed and landscaped.

The current application proposes extending the facility into the land to the north of this existing site. The applicant wishes to expand the current business due to high



demand. The proposed fishing lakes would increase the capacity of the facility and the extension to the bund would improve the visual and acoustic amenity of the site.

Policy context

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan Document, the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One, Lancaster City Council Local Plan Part One: Strategic Policies and Land Allocations Development Plan Document and Lancaster City Council Local Plan Part Two: Development Management Development Plan Document.

Paragraph 11 of the National Planning Policy Framework (NPPF) states that proposals that accord with an up-to-date development plan should be approved without delay. Where there are no relevant policies or where the policies which are most important for determining the application are out of date, planning permission should be granted:

- Unless the policies in the National Planning Policy Framework (NPPF) that protect areas or assets of particular importance provide a clear reason for refusal.
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the National Planning Policy Framework (NPPF) as a whole.

It is considered that the policies to which the greatest weight should be attached are those contained in the Lancaster City Local Plan. As this application also contains an element of mineral extraction, Policy DM2 of the Lancashire Minerals and Waste Local Plan (LMWWLP) is also relevant with regard to the assessment of local environmental impacts. Whilst this policy is contained in a Plan which has now time expired, it is considered to accord with the current edition of the National Planning Policy Framework (NPPF) and therefore can still be relied upon for decision making purposes.

The main issues associated with the application are considered to be the principle of the development, impacts on highway safety (including impact on the motorway network), landscape impacts, impacts on ecology and matters of drainage and flood risk.

Principle of the development

The application site is located within the open countryside, as defined in the Lancaster City Council Strategic Policies and Land Allocations Development Plan Document. Policy DM22 (Leisure Facilities and Attractions) of the Lancaster City Council Development Management Development Plan Document sets out that leisure facilities in rural locations will be supported where it has been demonstrated that a robust assessment has been undertaken which justifies a rural location. It



goes on to state that proposals will be supported where it is for the expansion of an existing leisure facility and is in scale and character with its location and complies with other relevant policies. Policy DM47 (Economic Development in Rural Areas) sets out that development proposals in rural areas will be supported in principle where the development is required for new or existing outdoor sport and leisure facilities and where a rural location is needed, justified and is in accordance with other relevant policies.

The proposal is for the creation of a new fishing lake of significant size which by its very nature will need to be in a rural location.

In support of the application the applicant has provided details of their booking statistics over a three-year period (2018/19- 2021/22) which demonstrates that the present demand for the existing facilities is in excess of the capacity to accommodate those demands, that there are significant waiting lists for several of their facilities, and day tickets at weekends are consistently over booked. It is considered that this demonstrates that there is an evidenced need for the proposed expansion of the fishing lakes.

In addition to the local planning policies mentioned above, Paragraphs 84 and 85 of the National Planning Policy Framework (NPPF) state that rural policies and decisions should enable sustainable growth and expansion of all types of business in rural areas, including sustainable rural tourism and leisure developments which respect the character of the countryside. It is considered that the applicant has adequately demonstrated the need and justification for an expansion of the fishing lake facility. The formation of fishing lakes is considered to be an appropriate, rural development, in accordance with national and local planning policy.

The applicant has stated that the extension of the proposed bund is required in order to improve the acoustic and visual amenity of the site by reducing the impacts of noise from the adjacent M6 motorway. It would benefit both the existing fishing facility and proposed extension area. It is likely that there would also be some noise benefits for the properties located close to the junction of Borwick Lane and Kellet Lane. The applicant also states that the subsequent landscaping and planting of the bund would increase biodiversity of the site. The proposed bund would be constructed from materials excavated during the formation of the two proposed fishing lakes and would therefore assist in reducing the traffic impacts of the development. The landscape implications of the bund are discussed further below.

The creation of the main lake would require the excavation of a considerable volume of material. The applicant has undertaken a geotechnical survey of the site which confirms the presence of sand and gravel material. No information has been presented on the quality of this material, but it is likely that it could be used for a number of construction purposes. The excavation of this material would therefore make a small, however, significant contribution towards the supply of sand and gravel materials which should carry some weight in the determination process. The proposed lake excavation is relatively shallow and would not remove all of the sand and gravel resource which appears to extend to at least 5 metres below ground level. However, the unworked resource would remain in the ground and would not be sterilised by any built development and therefore would not conflict with Policy M2 of the Lancashire Minerals and Waste Local Plan.



Landscape impacts

Lancaster City Council have objected to the proposals on the basis that the proposed bund would erode the openness of the existing landscape, forming a visually harmful and alien feature within the existing landscape. They state that the justification for this part of the development, to provide noise attenuation for the fishery, does not justify the identified landscape harm. They therefore consider that the proposal is contrary to policy DM46 (Development and landscape impact) of the Lancaster City Council Development Management Development Plan Document.

Policy DM46 requires that development must be in scale and keeping with the landscape character and be appropriate to its surroundings in terms of siting, scale, massing, design, materials, external appearance and landscaping. In particular it states that consideration must be given to both the individual and cumulative impacts of a proposal.

The proposed bund would be an extension of the existing bund forming the western boundary of the fishery to the south and against the backdrop of the motorway to the west. The motorway lies in a slightly elevated position to the application site and is screened by several groups of mature poplar and alder trees, approximately 20m in height. None of these trees are proposed for removal.

The applicant has put forward the following in support of the bund proposals:

- No trees are required to be removed to facilitate the bund.
- The successful landscaping of the existing bund should be taken into consideration. The existing bund is not jarring or discordant.
- The bund will be constructed with undulations and variations in height and width to produce a more natural formation.
- The bund will blend into the landscape as the existing bund has done.
- The bund is required to mitigate against noise pollution produced by the motorway and visual intrusion of passing traffic and will offer a physical barrier against salt spray in winter which has the potential to pollute the existing fishing lake waters.
- The existing trees along the boundary are not in leaf in the winter and do not provide an adequate visual or acoustic barrier.

Views of the bund from outside of the application site will be relatively limited, due to the distance of the bund from the site boundaries to the east in particular and the existing and proposed boundary planting. The principle of the construction of a bund on the existing fishery site was established a number of years ago. It is not considered that the existing bund is so prominent or intrusive within the landscape as to cause undue harm, particularly when viewed in the context of the motorway and commercial fishery within which it is set. It is acknowledged that to increase the length of the bund would increase its prominence, however, on balance it is not considered that this is sufficient to warrant refusal of the proposals. The site is not set within any specially designated landscape and there are trees, planting and other artificial landscaping features commonly within the local area (in particular at the numerous caravan parks nearby). Furthermore, the bund will be constructed from



materials excavated onsite, during construction of the proposed fishing lakes and therefore the time period to construct the bund will be reduced compared to the construction of the existing bund, which was constructed from imported materials. The applicant has estimated that the construction period would be 6-8 months. The landscape impacts of the proposed bund are not therefore considered to be so harmful as to warrant refusal of the proposals.

In respect of the proposed fishing lakes the wider area is characterised by a number of lakes, many formed from historic quarry workings, most of which are now used for various leisure and tourism purposes. It is considered that the creation of two additional lakes would not be unduly prominent or out of keeping with the general character of the area.

Highway Safety

It is proposed that there would be two points of access to enable the proposed construction works to take place:

- Works to the existing site entrance in the north-east corner of the application site.
- A temporary secondary site access re-established to the east of the site onto Kellet Lane. This point of access was used for previous construction works to construct the bund on the lakes to the south.

It is estimated that the construction of the lakes would result in approximately 63,500 cubic metres of excavated material. The bund would require approximately 17,000 cubic metres of material. This would result in approximately 46,500 cubic metres of excess materials that would need to be transported off site. This would equate to approximately 70,000 tonnes of material. Based on transport by a 20-tonne tipper lorry, the applicant estimates that there would be an average of around 40 heavy goods vehicle (HGV) movements per day, over an estimated construction period of 6-8 months. No on-site processing is proposed. This material is anticipated to largely comprise sand and gravel.

Access to the site is from the A6 via Borwick Lane, a distance of around 700 metres from the A6 roundabout. Part of Borwick Lane was improved approximately 15 years ago as part of a tourism development on land to the west of the M6 road which resulted in a much-improved junction with the A6. There are no residential properties which immediately adjoin Borwick Lane between the site and the A6.

Lancashire County Council Highways have confirmed that they do not object to the proposals. The National Planning Policy Framework (NPPF) is clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As no objections have been raised by Lancashire County Council Highways it is considered that a refusal on highway safety grounds could not be sustained. A number of planning conditions are recommended in order to further mitigate highway impacts, such as wheel cleaning, numbers of heavy goods vehicle (HGV) movements and sheeting of loads. A condition should also be imposed requiring a plan to be submitted showing the depths of excavation in order to control the extent of the excavation works. As Kellet



Lane is also part of the Lancashire Cycle Way it is considered that the exportation of materials should be limited to Mondays to Fridays.

Impact on the motorway

The proposed bund would be located approximately 20m from the motorway allowing the existing trees to be retained. It would extend the existing bund northwards by approximately 260m. The bund would have a maximum height of 5m and a width of approximately 36m. It is proposed that the bund would be planted with grass seed, wildflower mix and tree and shrub planting.

Initially, National Highways raised concerns with regard to the potential for the bund to harm the integrity of the motorway in terms of the potential for slope instability and downward pressure on the ground creating uplift of motorway land and lack of clarity on the proposed drainage system. Following the submission of a revised Geotechnical Investigation and Drainage Strategy, National Highways have removed their objections, subject to the imposition of conditions requiring a construction management plan and details of the temporary fencing to be submitted and approved. It is therefore considered that the proposed bund would not cause any harmful impacts on the motorway.

Ecology

A preliminary ecological appraisal has been submitted in support of the planning application. The existing site is comprised of an agricultural grazing field. The appraisal finds that the plant assemblages at the site are all common to the area and considered to be of low ecological value. None of the hedgerows around the site perimeter were considered important under the Hedgerow Regulations 1997. It recommends that areas of woodland should be retained and protected during the works. Birds are likely to utilise the woodland and hedgerow on the site perimeter for nesting between March and September. Any vegetation clearance should be undertaken outside of this period. Further advice should be sought to ensure that any Himalayan Balsam (an invasive species) remnants remaining on the site do not spread. No other notable or protected species were recorded to the site.

Lancaster City Council have expressed concerns that insufficient detail on proposed biodiversity enhancements has been provided. However, Jacobs UK Ltd, advising the county council on ecology matters have advised that these matters can be adequately dealt with via the imposition of conditions. The proposals include considerable areas of tree and shrub planting on the new mound, new non-fishing water bodies along the toe of the new mound and there would also be landscaping in the new fishing lake itself. At present, the requirement within the National Planning Policy Framework (NPPF) is that planning decisions should contribute to and enhance the local environment by minimising impacts on biodiversity and providing for a net gain; there is no statutory level of gain that has to be provided. Given the current condition of the site and the new habitats that would be provided, it is considered that the scheme would represent an uplift in ecological value compared to the existing situation. The details of landscaping should be the subject of a planning condition.



The most recent permission relating to works on the fishing lakes to the south is accompanied by a Section 106 agreement providing for the ecological and angling management of the site for 15 years. It included a number of no-fishing areas to provide an undisturbed area for over wintering birds. As the current proposal is for a new development, within an area that has never been subject to any environmental designation it is not considered necessary for a legal agreement to be used to secure the various landscape and ecological improvements and long-term management proposals proposed.

Given the consultee comments, it is considered that subject to the imposition of suitable conditions, the proposals would contribute to and enhance the ecological value of the site in accordance with national and local planning policies.

Drainage and flood risk

Paragraph 169 of the Framework requires major development to incorporate sustainable drainage systems that:

- Take account of advice from the lead local flood authority.
- Have appropriate proposed minimum operational standards.
- Have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- Where possible, provide multifunctional benefits.

Policies DM33 and DM34 of the Lancaster City Council Development Management Development Plan Document also seek to ensure that surface water drainage is managed sustainably within new development and that risks of flooding are minimised.

The application site is located within flood zones one and three and the application is accompanied by a flood risk assessment and a drainage strategy. Initially the Lead Local Flood Authority objected to their proposals, raising concerns regarding the management of off-site flood risk arising from the development and subsequently how surface water would be managed on site. However, following additional information, including causeway flow calculations and detailed swale design drawings the objections were withdrawn.

The supporting information sets out that the proposed lakes are to be drained as per the existing lakes with inlets feeding to the existing site and subsequently balancing with the adjacent River Keer. The site will be graded to the centre where the main fishing lake is proposed to remove any off-site flood risk. In respect of the proposed bund, a number of french drains, filter drains, and swales are proposed in order to collect surface water routed under the bund from the western side. National Highways have confirmed that they are happy with these proposals in principle, but in order to ensure that the drainage pipes are of sufficient strength to cater for the bund loadings and that sufficient fall of the pipes is proposed they have requested the imposition of a condition requiring the specification of the pipes to be confirmed prior to the commencement of construction.

It is considered that, subject to the imposition of the recommended conditions, the applicant has adequately demonstrated that there will be no unacceptable increase



in flood risk as a result of the proposal and that surface water drainage will be adequately controlled. The proposal is therefore in accordance with the Framework and local plan policies in this regard.

Other impacts

The nearest residential property to the proposed development is Manor Farm, which is located on the eastern side of Kellet Lane, opposite the proposed northern temporary access point. There are also a number of properties on Borwick Mews immediately adjacent to Manor Farm close to the development. These properties were notified individually by letter and no comments from neighbouring residents have been received.

Some noise and disturbance would arise during the construction phase of the proposed development, principally arising from the excavation operations and vehicle movements to and from the site to remove the excess excavated materials. It is estimated that this would average approximately 20 vehicles per day for a construction period of 6-8 months. It is recommended that conditions are attached to control site operational procedures in order to minimise the impacts on neighbouring residents. This should include controls on hours of working, noise, dust, a prohibition on any mineral processing and conditions to control the depths and extent of excavation so that the duration of operations is strictly controlled.

The proposed otter fencing (1.8m in height) would be positioned on the inside of the existing hedgerow fronting onto Kellet Lane, with a proposed native planting buffer between the hedge and the fencing. It is considered that the proposed fencing would not form an unduly obtrusive or prominent feature when viewed from neighbouring properties or from Borwick Lane. The proposed development would result in the commercial activities of the fishing lake being brought considerably close to the existing residential properties than at present. However, given the nature and character of the use, and the lack of objections, it is not considered that this warrants refusal of the proposals.

The application proposes the removal of a small number of trees within four groups across the site. All of the trees to be removed are considered to be of low quality. Additional tree planting along the embankment and eastern site boundary are proposed. It is considered that the quality of the trees to be removed, together with the mitigative planting proposed mean that the proposals would not give rise to unacceptable arboricultural impacts.

Conclusion

In conclusion this application would require the excavation of a relatively small amount of sand and gravel materials from the site. The extension of the proposed fishing lakes is considered to be acceptable in accordance with policies for rural development and the formation of the proposed bund would not be unduly harmful to the character and appearance of the landscape, particularly when viewed in the context of the existing site and motorway. Subject to conditions, the impacts on local amenity are considered acceptable. The proposals are accordingly recommended for approval.



In view of the scale and location of the proposals it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Recommendation

That planning permission be **Granted** subject to the following conditions:

Time Limits

1. The development shall commence not later than 3 years from the date of this permission.

Reason: Imposed pursuant to Section 91 (1)(a) of the Town and Country Planning Act 1990.

Working Programme

2. The development shall be carried out, (except where modified by the conditions to this permission), in accordance with the following documents:

- a) The Planning Application received by the County Planning Authority on 5 February 2021 as amended by the letters from Leeming Associates dated 13 July 2021, 18 January 2022 and 14 June 2022.

- b) Submitted Plans and documents:

Drawing No. 3086-PL-100 Existing location plan

Drawing No. 3086-PL-101 Existing site plan

Drawing No. 3086-PL-102 Existing Northern Site Entrance Plan

Drawing No. 3086-PL-202 Proposed North Site Entrance

Drawing No. 3086-PL-203 Proposed Otter fence

Drawing No. 3086-PL-204 Proposed Embankment and Lake Sections

Drawing No. 19A118/002 Topographical Survey of Land at: Clearwater Fisheries Kellet Lane

Drawing ref. TC-L9690-20-SK01 Rev A Drainage Proposal

Drawing ref. TC-L9690-21-SK02 Drainage Section

Drawing ref. TC-L9690-22-100 A Swale Design

Drawing No. 3086-PL-200 Rev C Proposed Site Plan 1:1250

Drawing No. 3086-PL-201 Rev C Proposed Site Plan 1:500

- c) All schemes and programmes approved in accordance with this permission.

Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with policy DM2 of the of the Lancashire Minerals and Waste Local Plan and policies DM33, DM34, DM44 and DM46 of the Lancaster City Council Development Management DPD.



3. Notification in writing shall be provided to the County Planning Authority of the commencement of excavation works within 7 days of such commencement.

Reason: In order to ensure the proper restoration of the site in the interests of visual amenity and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan.

4. The excavation works hereby permitted shall be completed within one year of the date of commencement notified to the County Planning Authority under the provisions of condition 3 above.

Reason: In order to ensure the proper restoration of the site in the interests of visual amenity and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan.

5. No excavation works shall commence until a plan has been submitted to and approved in writing by the County Planning Authority showing the base contours of the proposed fishing lakes.

No excavation shall take place beyond the extent of excavation shown on the approved drawing.

Reason: In the interests of local amenity and the conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

6. No processing (crushing, screening or washing) of excavated materials shall take place on the site.

Reason: In the interests of local amenities and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

7. No soil materials or sand and gravel shall be removed from the site until the bund has been constructed to the dimensions shown on drawing 3086-PL-201 Rev C.

Reason: To ensure that the bund is completed prior to any other operations taking place on the site in the interests of visual and amenity and local amenity and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

8. During excavation works, measures shall be taken at all times to minimise the generation of dust. Such measures shall include the watering of all haul roads used by HGVs transporting materials from the site.

Reason: in the interests of the amenities of local residents and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.



9. No development shall commence until a scheme of measures to protect motorway infrastructure has been submitted to the County Planning Authority for approval in writing. The scheme shall contain the following information:
- a) Details for the installation of fencing or other forms of delineation to mark out the western edge of the proposed bund. The details shall ensure that a buffer of sufficient width is retained between the M6 motorway and the bund to protect existing vegetation alongside the motorway and any existing motorway infrastructure.
 - b) A construction, earthworks method statement and environmental management plan.
 - c) Details of the drainage measures to be installed to ensure the continuation of existing drainage patterns and to ensure that there is no risk of flooding to the M6 Motorway.

The fencing or other approved form of delineation and drainage measures shall be installed in accordance with the approved details prior to any bund creation commencing and the bund construction works shall be undertaken in accordance with the details approved under part b) above.

Reason: For the purpose of ensuring that the M6 motorway continues to fulfil its purpose as part of the national system of routes for through traffic, in accordance with Section 10 (2) of the Highways Act 1980, maintaining the safety of traffic on the road and the integrity of the motorway asset, in the interests of highway safety and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

Hours of Working

10. No excavation or bund creation works shall take place outside the hours of:
- 07:30 to 18:00 hours, Mondays to Fridays (except Public Holidays)
08:00 to 13:00 hours on Saturdays

No development shall take place at any time on Sundays or Public Holidays.

Notwithstanding the above hours, the export of excavated materials from the site shall only take place between the hours of 08.00 - 17.30 Mondays to Fridays excluding public holidays.

This condition shall not, however, operate so as to prevent the carrying out, outside these hours, of essential repairs to plant and machinery used on site.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.



Safeguarding of Watercourses and Drainage

11. The development shall be carried out in accordance with the principles set out within the site-specific flood risk assessment dated 5 November 2020, (Flood Risk Consultancy Limited, 20081-01) and surface water sustainable drainage strategy dated 25 April 2022 (Swale Design, Thomas Consulting, TC/L9690/22/100 Rev A).

The surface water management measures including drainage and swale system shall be constructed with one month of the completion of the bund.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

Highway Matters

12. Prior to the commencement of the development a survey of highway surface conditions on Kellet and Borwick Lanes between the site access and junction with the A6 and A6070 shall be submitted for the approval in writing of the County Planning Authority. The survey shall identify on a plan supported by photographic information any highway defects along these highways.

Within three months of cessation of excavation activities a further survey of the above highways shall be undertaken outlining the condition of the road and including details of and remediation or repair works necessary to address any damage due to development traffic. The survey shall be submitted to the County Planning Authority for approval in writing. The remediation works contained in the approved scheme shall be undertaken within six months of cessation of the date of approval of the scheme.

Reason: In the interests of highway safety and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

13. All heavy goods vehicles (HGVs) associated with the export of excavated materials shall turn left out of the site access.

Reason: In the interests of residential amenity and highway safety and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

14. No development shall commence until details of the following matters have been submitted to and approved in writing by the County Planning Authority.
 - a) Identification of the access and egress points into the site including any improvement works required including provision of hard surfacing.
 - b) Location, design and specification of wheel-cleaning facilities to be located at the egress point identified in a) above.



- c) details for the removal of the wheel cleaning facilities, hard surfacing and reduction on the access points to an agricultural scale including details for the replacement of any hedgerow

Heavy goods vehicles (HGVs) exporting materials from the site shall only leave via the egress point identified in a) above.

The wheel cleaning facilities shall be installed, maintained in working order and be used by all heavy goods vehicles (HGVs) leaving the site throughout the development to ensure that no debris from the site is deposited by vehicle wheels upon the public highway.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan.

15. Before either of the proposed points of access are used for vehicular purposes, that part of the points of access extending from the highway boundary for a minimum distance of 15m into the site shall be appropriately paved in tarmacadam, concrete, block paving, or other approved

The length of road between the wheel cleaning facilities approved under condition 14 and the junction with the public highway shall be hard surfaced and such hard surfacing be retained for duration of the excavation and construction works.

Within three months of the completion of excavation and construction works the northern site access shall be restored in accordance with the details shown on plan ref. 3086-PL-202. All temporary site access roads shall be restored and the eastern site access at its junction with Kellet Lane reinstated to its pre-development dimensions.

Reason: To prevent loose surface material from being carried onto the public highway thus causing a potential source of danger to other road users. In the interests of highway safety and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

16. All vehicles transporting excavated materials of a size less than 100mm in any dimension from the site shall be securely sheeted.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users) and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Landscaping

17. All hedges and trees forming part of the site boundaries or to be retained within the site as detailed in the Arboricultural Impact Assessment ref. AIA.13420.01 dated 14 January 2022 shall be protected from any damage



and maintained throughout the development and aftercare period as set out in the Arboricultural Impact Assessment.

Reason: In the interests of visual and local amenity and the local environment and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy DM44 of the Lancaster City Council Development Management Plan Document.

18. No development shall take place until a scheme and programme for the landscaping of the site has been submitted to and approved in writing by the County Planning Authority. The proposed scheme shall include the following information:
- a) The landscaping of the bund including seeding specification, tree and shrub planting including sizes, species and types of trees, spacings, planting methods and protection measures.
 - b) Hedge planting along the northern boundary to screen the proposed otter fencing including the location of the hedgerow, sizes, species and types of hedgerow plants, spacings, planting methods and protection measures.
 - c) Details for the landscaping of the fishing lake including tree and shrub planting and marginal and reed bed planting.
 - d) Landscaping of swales.
 - e) Closure of the construction access points including removal of hard surfacing, wheel cleaning facilities and landscaping including hedge planting.

The approved landscaping works shall be undertaken in the first planting season following the completion of the excavation works and shall thereafter be maintained for a period of five years including weed control, replacement of dead and dying trees and maintenance of protection measures.

Reason: In the interests of ecology and to conform with Policies DM44 and DM46 of the Lancaster City Council Development Management Development Plan Document.

19. The development shall be carried out in accordance with the best practice mitigation measures as detailed in section 7 of the Preliminary Ecological Appraisal dated November 2020 ref. 5022.

Reason: In the interests of ecology and to conform with Policies DM44 and DM46 of the Lancaster City Council Development Management Development Plan Document.

20. Prior to commencement of excavation a habitat enhancement and management plan for the site shall be submitted to the County Planning Authority for approval in writing.



The management plan shall contain details of the following:

- a) Details of the depth and size of proposed ponds adjacent to the proposed bund and future management regime.
- b) Management of tree and shrub planting including replacement of failed plants, weed control and maintenance of protection measures.
- c) The management of grassland areas including grazing or cutting regimes to be followed.
- d) Management of habitat on lake edges.
- e) Details for the management of the angling activity including the location of fishing pegs, car parking facilities, areas where fishing will not be allowed and facilities for collection of litter.

Thereafter, the management of the site shall be undertaken in accordance with the approved management plan.

Reason: To ensure the management of the angling and landscaping works on the site in the interests of ecology and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

21. No trees or hedgerows shall be removed during the bird-breeding season between 1 March and 31 July inclusive unless they have been previously checked and found clear of nesting birds in accordance with Natural England's guidance and if appropriate, an exclusion zone set up around any vegetation to be protected. No work shall be undertaken within the exclusion zone until birds and any dependant young have vacated the area.

Reason: To protect nesting birds and to conform with Policies DM44 and DM46 of the Lancaster City Council Development Management Development Plan Document.

22. No development shall commence until an invasive species management plan to ensure no further spread and eradication of any new areas of growth of Himalayan Balsam within the site has been submitted to and approved in writing by the County Planning Authority. The approved mitigation and processes must henceforth be implemented and monitored to ensure that Himalayan Balsam identified on site is not spread from the site.

Reason: Causing Himalayan Balsam to grow in the wild is an offence under The Invasive Alien Species (Enforcement and Permitting) Order 2019 and in the interests of ecology and in accordance with Policies DM44 and DM46 of the Lancaster City Council Development Management Development Plan Document.



Notes

The developer is advised to contact Lancashire County Council Highways prior to the start of any excavation works on the site commencing regarding the installation of temporary signage on the public highway to warn other road users of turning heavy goods vehicles (HGVs).

The applicant should contact National Highways to arrange a pre-start site inspection to agree the state of National Highway's assets and alignment of the new fence as specified in the list of conditions.

It is advised that the specification of the drainage pipes to be used in connection with the drainage of the earth bund is agreed with National Highways prior to the start of works so that National Highways may be assured that they are not likely to deform under load, resulting in poor drainage performance that may have impacts for the motorway.

Otters are not to be restricted from areas of woodland which are in use as resting or sheltering places. The Preliminary Ecological Appraisal identifies woodland on site as being suitable habitat for otter holts. It is an offence under the Wildlife and Countryside Act 1981(as amended) to obstruct access to any structure or place which otter use for shelter or protection. It is therefore recommended that thorough checks are undertaken to ensure otter are not using the area prior to erection of otter exclusion fencing.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Ext
LCC/2021/006	Oct 2022	H Ashworth Planning and Environment (01772) 530084

Reason for Inclusion in Part II, if appropriate

N/A

