

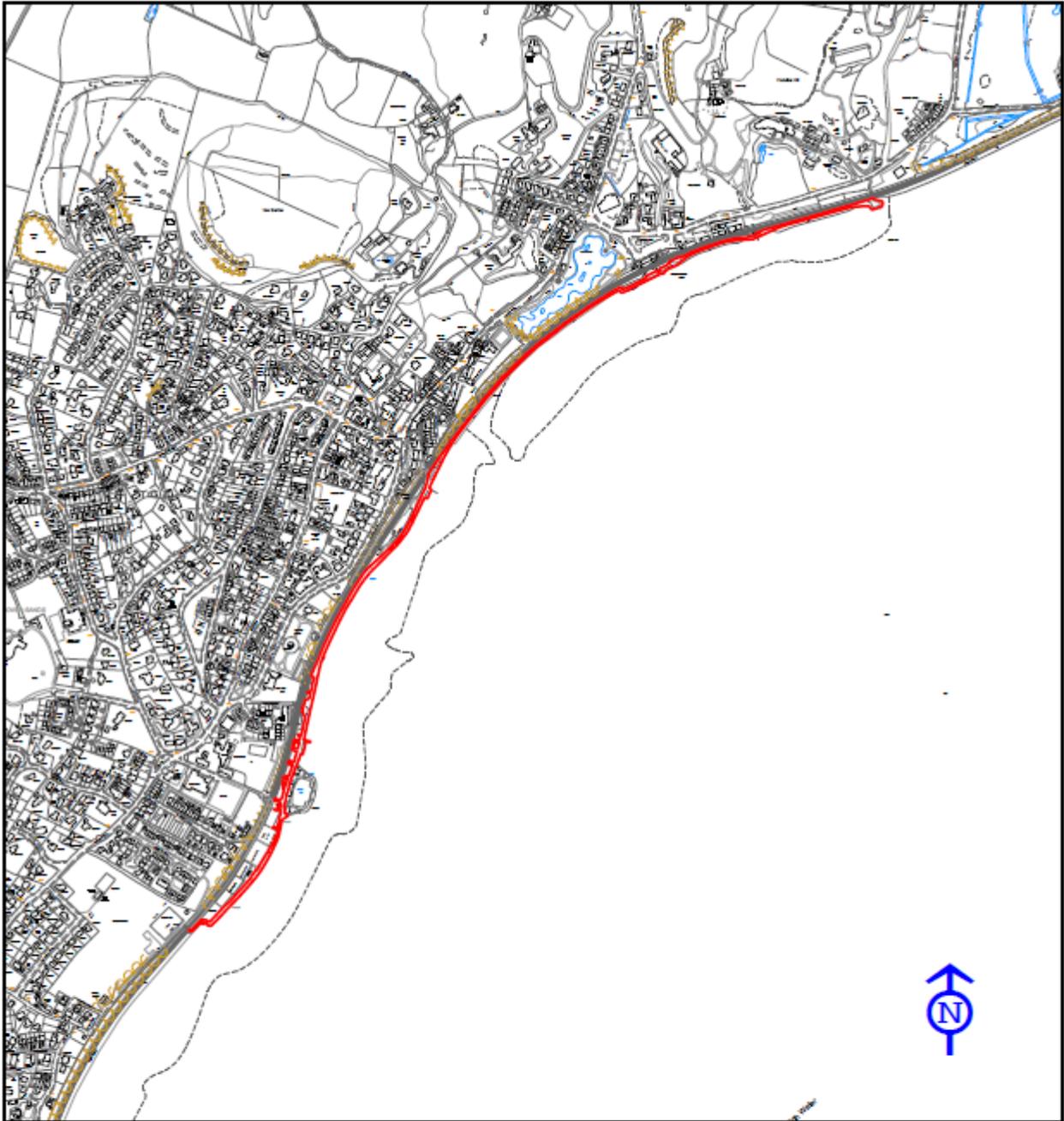
Planning application no. SL/2020/0103  
Grange Promenade, GRANGE-OVER-  
SANDS, LA11 7DH

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**SL/2020/0103**

**Grange Promenade  
GRANGE-OVER-SANDS  
LA11 7DH**

Scale: 1:10,000

## Summary

SL/2020/0103

PARISH: Grange-over-Sands

Grange Promenade, GRANGE-OVER-SANDS, LA11 7DH

PROPOSAL: Essential concrete repairs to the entire length of the sea defence wall. The proposal repairs include resurfacing the promenade with in situ sprayed concrete repairs to the upper edge "bull nose" and sea facing elevation of the sea wall. (Scheme amended to remove proposed lighting scheme)

APPLICANT: South Lakeland District Council

GRID REF: E 340754 N 477687

COMMITTEE DATE: 25 March 2021

CASE OFFICER: Andrew Martin

This application has been brought to Committee because it has been made by South Lakeland District Council.

The application proposes essential repairs to the entire length of Grange Promenade together with a number of landscape "interventions: freestanding information panels addressing a range of topics of relevance to the location and context.

The principal planning issues raised by the proposals are the potential impacts: (1) on the significant ecological designations which abut the site; and (2) heritage assets.

The application has been judged against the relevant legislative and policy requirements and other material considerations, including the National Planning Policy Framework and the associated Government Planning Practice Guidance, the application is recommended for approval, subject to a adoption of a Habitat Regulations Assessment and a number of conditions.

## Recommendation

The application is recommended for approval subject to:

- a) adoption by the Planning Committee of the following documents as a Habitat Regulations Assessment to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019):
  - Assessment of Likely Significant Effects (ALSE), Grange-over-Sands Promenade, February 2020, Bowland Ecology;

- Response to Natural England, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 15 April 2020, Bowland Ecology;
- Ecological Monitoring and Habitat Restoration and Management Plan, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 06 May 2020, Bowland Ecology; and
- Biodiversity and Habitat Management Plan, Grange-over-Sands Promenade, Cumbria, December 2020, Bowland Ecology

b) conditions.

## 1.0 Description and proposal

### Site description

- 1.1. The application site encompasses the entire length of the promenade and seawall in Grange-over-Sands, extending for approximately 1.8km. The site is completely contained within both the development boundary of the town and the Grange-over-Sands Conservation Area. It also abuts a number of significant ecological designations: (1) the Morecambe Bay and Duddon Estuary Special Protection Area (SPA); (2) the Morecambe Bay Special Area of Conservation (SAC); (3) the Morecambe Bay Ramsar site; and the Morecambe Bay Site of Special Scientific Interest (SSSI). The SPA and the SAC are defined as “European Sites” for purposes of The Conservation of Habitats and Species Regulations 2017 (“the 2017 Regulations”), (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019).

### Proposal

- 1.2. The application originally included proposals for new lighting along The Promenade, but this was removed for reconsideration following concerns raised in representations. There are now two key elements to the proposals:

#### Repairs to the promenade and seawall

- 1.3. These will comprise:
- Resurfacing the entire tarmac upper surface of the promenade using suitable bitumen bound materials.
  - Demolition of existing damaged mass concrete “bull nosing” using a combination of hydro-demolition and mechanical breakout. Replacement sections of bull nosing will comprise precast units bedded onto the existing mass concrete seawall.

- The application of a spray-applied concrete overlay to the entire seawall following removal of all loose, unstable material.
- Excavation of a number of hand dug trial pits at the base of the seawall to establish foundation conditions.
- Creation of a 2m wide working platform at the base of the seawall. This will be constructed of “bog mats” laid directly on top of the saltmarsh. Floating pontoons may be used in unstable locations around outfalls or standing water.

1.4. The works will result in a permanent net loss of approximately 133 sq. m. of saltmarsh, based upon the requirement for an extra layer of concrete along the length of the seawall.

### Landscape “interventions”

1.5. A series of so-called landscape “interventions” also form part of the proposals. These comprise five freestanding information panels, constructed of stone and incorporating space for pieces of commissioned artwork, which, we are told, will be formed using enamelled metal panels, inspired by Art Deco illustration, techniques and patterns. Adjacent to the enamelled panels will be a series of etched/screen printed infographics on patinated stainless steel.

1.6. The five themed interventions are proposed in the following locations, each addressing “a specific topic of relevance to the location and context.”

Intervention Reference No.	Location	Topic
1	Railway Station	Flora and Fauna
2	Railway Station	Birdlife
3	Main Street Car Park Underpass	Tides of Morecambe Bay
4	Pedestrian Footbridge over Railway	History of Grange-over-Sands
5	South West end of Promenade	Morecambe Bay

1.7. The landscape interventions will not result in habitat loss; they are all located on existing hardstanding along the promenade.

## 2.0 Planning history

2.1. The following applications are considered relevant:

- SL/2019/0803, Essential fabric and infrastructure restoration of the Grade II listed Lido buildings and surrounding external landscaping including new boundary treatments. Works to include reversible landscape

intervention within the Lido Pool. Application for full planning permission, Approved, 27 February 2020.

- SL/2019/0804, Essential fabric and infrastructure restoration of the Grade II listed Lido buildings and surrounding external landscaping including new boundary treatments. Works to include reversible landscape intervention within the Lido Pool. Application for listed Building Consent, Approved, 27 February 2020.

## 3.0 Consultations

### Grange-over-Sands Town Council

3.1. Comments as follows:

13 March 2020

No objection

### Environment Agency

3.2. Comments as follows:

19 March 2020

“We object to this development because it would encroach on an intertidal foreshore that is designated as a European designated site and has significant nature conservation value, without providing adequate mitigation. We recommend that the planning application is refused on this basis.

“Overcoming our objection

“It may be possible to overcome our objection by submitting a revised scheme which demonstrates how the development can take place without damaging the intertidal foreshore’s ecology. If this is not possible, details of appropriate mitigation and / or compensation for the loss of habitat must be provided.”

### Historic England

3.3. Comments as follows:

24 March 2020

“On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.”

## Natural England

### 3.4. Comments as follows:

15 December 2020

“I can confirm NE are satisfied with the proposed enhancement measures and plan.”

13 July 2020

“With regard to the HRA, Natural England have previously commented on the following documents;

- ALSE
- Response to Natural England (06/05/2020)
- Ecological Monitoring and Habitat Restoration and Maintenance Plan (06/05/2020)

“In our previous letter [dated 28/05/20] and follow up correspondence with Bowland Ecology, we have confirmed we concur with Bowland Ecology’s conclusions and sufficient information has been provided for the Local Planning Authority to complete their HRA and record their own conclusions on the scheme, as the Competent Authority. The information in the documents provided by Bowland Ecology essentially acts as a Shadow HRA which the LPA needs to adopt as their own to confirm they are satisfied as the Competent Authority.”

28 May 2020

### Habitat Regulations Assessment

“Natural England concur with Bowland Ecology Ltd’s conclusion in their ‘Response to Natural England’ that an Appropriate Assessment should now be undertaken. “

Further advice offered to assist local planning authority in making this Assessment, covering:

- Permanent Loss of SAC Habitat
- Temporary Loss of SAC Habitat
- Ecological Monitoring and Habitat Restoration and Maintenance Plan
- In-combination Assessment

### Landscape

“The proposed lighting has now been removed from the scheme and Natural England considers that this removes this potential impact on these designated

landscapes and we are satisfied no further landscape assessment is required.”

### Environmental Enhancement and Biodiversity Net Gain

“As noted in our previous response, the removal of existing slipways for salt marsh restoration and translocation of rare and desirable plant species was considered as a potential enhancement measure. Page 9 of the ‘Response to Natural England’ also refers to removing slipways to the salt marsh, on completion of the Promenade works. However, we note that no further information regarding these works have been submitted. Natural England supports this proposed enhancement measure, which will be beneficial to Morecambe Bay SAC/SSSI, and support the Local Planning Authority meet its Biodiversity Duty and biodiversity net gain policies within the NPPF (2019 and South Lakeland’s Local Plan Development Management Policies DPD (2019). We therefore recommend the Local Planning Authority secures these enhancement measures through planning condition if permission is to be granted.”

27 March 2020

The following additional information is required:

- Habitat Regulations Assessment – Appropriate Assessment
- Further information regarding permanent loss of habitat within the designated site
- Further information regarding temporary habitat damage within the designated site
- Ecological monitoring plan during construction phase.
- Habitat restoration plan following construction phase.
- Further information regarding recreational disturbance of SPA birds in combination with the restoration of the lido.
- Further information and assessment of landscape impacts to surrounding designated landscapes.
- Environmental Enhancement and Biodiversity Net Gain

## Network Rail

3.5. Comments as follows:

30 March 2020

“Network Rail has no objection in principle to the proposal works, however, we will need to be involved as the project develops as well as construction works – the

Promenade is owned by SLDC and it sits on top of existing operational railway structures and is close to the operational railway.”

## South Lakeland District Council

### Public protection

3.6. 25 March 2020

Recommends conditions for a restriction on working hours and the provision of a Construction Environment Management Plan.

### Neighbours / third parties

3.7. We have received nine letters of representation. These all support the proposed improvements to the Promenade, but eight are critical of the lighting proposals, which have now been removed from the scheme. One letter expresses disappointment at the removal of the lighting proposals, commenting that lighting would improve the experience of walking along the promenade in the darker winter months and would also be of benefit to the town's takeaways with more people taking later walks in the winter.

## 4.0 Relevant planning policies

### South Lakeland Core Strategy

4.1. The following Core Strategy policies are considered relevant to the proposal:

- CS1.1: Sustainable Development Principles
- CS1.2: The Development Strategy
- CS4: Cartmel peninsula
- CS8.2: Protection and Enhancement of Landscape and Settlement Character
- CS8.4: Biodiversity and Geodiversity
- CS8.6: Historic Environment
- CS8.7: Sustainable Construction, Energy Efficiency and Renewable Energy
- CS8.8: Development and Flood Risk
- CS8.10: Design
- CS10.2: Transport impact of new development

## South Lakeland Land Allocations Development Plan Document

4.2. The following Land Allocations DPD policies are considered relevant to the proposal:

- LA1.0: Presumption in favour of sustainable development

## South Lakeland Development Management Policies Development Plan Document (DMDPD)

4.3. The following DMDPD policies are considered relevant to the proposal:

- DM1: General Requirements for all development
- DM2: Achieving Sustainable High Quality Design
- DM3: Historic Environment
- DM4: Green and Blue Infrastructure, Open Space, Trees and Landscaping
- DM6: Flood Risk Management and Sustainable Drainage Systems
- DM7: Addressing Pollution, Contamination Impact and Water Quality

## Grange-over-Sands Parish Neighbourhood Plan (2017-2027)

4.4. The following Neighbourhood Plan policies are considered relevant to the proposal:

- Policy 6 Conserving Gateway Views
- APPENDIX 7 Design Guide

## Other material considerations

### National Planning Policy Framework

4.5. The following sections are considered relevant to this application:

2. Achieving sustainable development
4. Decision-making
8. Promoting healthy and safe communities
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

## Cumbria Development Design Guide

### Grange-over-Sands Conservation Area Character Appraisal (16 August 2006)

## Cumbria Landscape Character Guidance and Toolkit

### Draft North West Inshore and Offshore Marine Plan

- 4.6. Under section 58(1) Marine and Coastal Access Act a public authority must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents, unless relevant considerations indicate otherwise.
- 4.7. Formal consultation on the Draft North West Inshore and Offshore Marine Plan took place between 14 January and 06 April 2020. The draft plan became a material planning consideration once the consultation started, although only limited weight can be applied to it at the moment.
- 4.8. The GIS mapping tool provided in association with the consultation identified 46 “Plan Area Policies” potentially applicable to the project. Of those, the following have relevance to the planning merits of the current proposals:
- NW-INF-1 Infrastructure
  - NW-HER-1 Heritage assets
  - NW-SCP-1 Seascape and landscape
  - NW-WQ-1 Water quality
  - NW-ACC-1 Access
  - NW-TR-1 Tourism & recreation
  - NW-SOC-1 Social
  - NW-MPA-1 Marine protected areas
  - NW-MPA-2 Marine protected areas
  - NW-MPA-3 Marine protected areas
  - NW-MPA-4 Marine protected areas
  - NW-BIO-1 Biodiversity
  - NW-BIO-2 Biodiversity
  - NW-BIO-3 Biodiversity

- NW-NG-1 Net gain
  - NW-DIST-1 Disturbance
  - NW-CE-1 Cumulative effects
- 4.9. The full text of these can be viewed online. A number of these policies - in particular NW-INF-1 (Infrastructure), NW-ACC-1 (Access), NW-TR-1 (Tourism & recreation) and NW-SOC-1 (Social) – are supportive of proposals that, as in this case, improve access to, and improve enjoyment and interpretation of, the marine environment. The remainder flag up important constraints, but in this case all of those are addressed by existing development plan policies and the obligations established by The Conservation of Habitats and Species Regulations 2017.

## 5.0 Assessment

### Principle of development

- 5.1. Given the nature of the works, and the fact that the application site is completely contained within the development boundary of one of the three Key Service Centres identified by Core Strategy policy CS1.2 (The Development Strategy), the principle of the development is considered acceptable.

### Ecology

- 5.2. The strategic objectives of the Core Strategy include:

“Ensuring that new development safeguards and enhances the natural and built environment, [and]

“[Increasing] the resilience of ecosystem services (the processes by which the environment produces resources utilised by humans) by protecting against harm to biodiversity and taking opportunities to enhance and create ecologically-diverse habitats in all locations.”

### International designations

- 5.3. Policy CS4 (Cartmel Peninsula) states that, amongst other things, [the] Council and its partners aim to:

“Ensure that new development safeguards and enhances the natural environment – notably the international designations within the area, including Morecambe Bay ....”

- 5.4. Policy CS8.4 (Biodiversity and geodiversity) includes a statement that:

“Development proposals that would have a direct or indirect adverse effect on nationally, subregional, regional and local designated sites and

non-protected sites that are considered to have geological and biodiversity value, will not be permitted unless:

- They cannot be located on alternative sites that would cause less or no harm;
- The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and
- Prevention, mitigation and compensation measures are provided.”

5.5. In this case the application site lies within the impact zone of a number of significant ecological designations: (1) the Morecambe Bay and Duddon Estuary Special Protection Area (SPA); (2) the Morecambe Bay Special Area of Conservation (SAC); (3) the Morecambe Bay Ramsar site; and the Morecambe Bay Site of Special Scientific Interest (SSSI). The SPA and the SAC are defined as “European Sites” for purposes of The Conservation of Habitats and Species Regulations 2017 (“the 2017 Regulations”).

5.6. South Lakeland District Council (SLDC) is termed a “competent authority” for the purposes of the 2017 Regulations, meaning that in situations where it intends to permit a project with potential effects on a “European Site”, either alone or in combination with other plans or projects, further consideration of those effects is necessary. This requires a Habitat Regulations Assessment (HRA).

5.7. A HRA involves four stages.

- Stage 1 involves screening to determine if the development is likely to have a significant effect on a European site and whether a full Appropriate Assessment (AA) is required;
- If required, Stage 2 involves undertaking an AA to determine whether the project will adversely affect the integrity of any given European site(s), in view of their conservation objectives. Conservation objectives specify the overall target for a site’s qualifying features (habitats and species/populations listed in Annex I and II of the 2017 Regulations) in order for that feature to be maintained or restored, to reach favourable conservation status.
- Stage 3 is triggered if significant adverse effects are identified in stage 2. This stage requires alternative options to be examined to avoid significant impacts on European sites.
- If it is deemed that the project should proceed for Imperative Reasons of Overriding Public Interest (IROPI), Stage 4 involves an assessment of compensatory measures which would be required.

5.8. In any situation where a planning application has the potential for effects on a European Site the applicant is under an obligation to provide the information necessary to inform the HRA. In this case that information has been provided in four key documents:

- Assessment of Likely Significant Effects (ALSE), Grange-over-Sands Promenade, February 2020, Bowland Ecology
  - Ecological Appraisal and National Vegetation Classification Report, Grange-over-Sands Promenade, February 2020, Bowland Ecology
  - Response to Natural England, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 15 April 2020, Bowland Ecology
  - Ecological Monitoring and Habitat Restoration and Management Plan, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 06 May 2020, Bowland Ecology
  - Biodiversity and Habitat Management Plan received 16 December 2020
- 5.9. The sequence in which these documents have been submitted, and their evolving contents, is largely in response to a dialogue with Natural England. This is evident in the summary of Natural England’s responses set out earlier in this report, all of which can be viewed in full online. Natural England’s reference to the “Response to Natural England (06/05/2020)” is actually a reference to the document of that name dated 15 April 2020; 06 May is the date that Natural England was consulted.
- 5.10. Natural England has confirmed that, from its perspective, the various documents submitted by Bowland Ecology constitute a satisfactory Appropriate Assessment for the purpose of the 2017 Regulations and would be suitable for adoption by the local planning authority (in the form of a “Shadow HRA”) to meet our obligations as a competent authority. That is the recommendation of this report. The key conclusion of Bowland Ecology’s documents is that in order to ensure no adverse impact on the European sites concerned, and, by extension, the Ramsar site and the SSSI, a Construction Environment Management Plan (CEMP) will be required, setting out various important controls and restrictions. Some of the likely detail of the CEMP is already set out in the various documents, but this will need to be pulled together into a single document and this can be covered by a planning condition. The CEMP can also embrace the requirements of the Council’s Public Protection Team.

## Other ecological matters

- 5.11. Policy CS8.4 (Biodiversity and geodiversity) includes a statement that:
- “All development proposals should:
- Protect, enhance and restore the biodiversity and geodiversity value of land and buildings;
  - Minimise fragmentation and maximise opportunities for restoration, enhancement and connection of natural habitats (including links to habitats outside South Lakeland); and

- Incorporate beneficial biodiversity and geodiversity conservation features, including features that will help wildlife to adapt to climate change where appropriate.

“Proposals should particularly seek to contribute towards the UK priority habitats and species in South Lakeland, and any additional Cumbria Biodiversity Action Plan species.”

- 5.12. Furthermore, DMDPD policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) expects all development proposals to result in environmental net gains for biodiversity, unless it can be demonstrated that this is not possible. The policy reflects the government’s position in paragraph 170 of the NPPF.
- 5.13. In this case the proposals will result in the loss of 133 sq. m. of saltmarsh, resulting from the requirement for an extra layer of concrete along the length of the seawall. This is not regarded as significant in terms of potential impact upon the various ecological designations in Morecambe Bay, but on its own it would amount to a net loss in biodiversity. There is limited potential to compensate for this within the fabric of the scheme itself and so the applicants have opted to incorporate off-site enhancements to an adjoining area of land in their ownership on the far side of The Promenade, opposite the Lido. This amounts to an area of approximately 2,260 sq. m. and is currently described as “unmanaged scrub, introduced shrubs, scattered trees and species-poor rough grassland, with a public path running through the centre”. The path is a popular connection between Berners Close Car Park and The Promenade via the railway footbridge.
- 5.14. The proposed enhancements are set in a Biodiversity and Habitat Management Plan<sup>1</sup>. The Plan spans a proposed period of 15 years and sets three key objectives:
1. Enhance the habitats available to wildlife;
  2. Maintain and improve provision for protected and notable species of conservation concern; and
  3. Control invasive species.
- 5.15. Natural England has confirmed that the Biodiversity and Habitat Management Plan meets its expectations for biodiversity enhancement. Together with the proposed CEMP, the Biodiversity and Habitat Management Plan also addresses the Environment Agency’s concerns.

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<sup>1</sup> Biodiversity and Habitat Management Plan, Bowland Ecology, December 2020, prepared in accordance with (BS 42020:2013 Biodiversity: Code of Practice for Planning and Development).

## Heritage Assets

- 5.16. The proposal directly impacts upon the Grange-over-Sands Conservation Area and indirectly affects a number of listed buildings by extending into their setting.

## Legislative and policy context

- 5.17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

- 5.18. Section 72(1) states that in determining planning applications in a conservation area “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

## Core Strategy

- 5.19. In identifying “Protecting and enhancing the quality environment” as a key issue the Core Strategy acknowledges that the “rich built heritage of the area has a significant cultural value that requires protecting and enhancing.” This then feeds into the strategic objective of the Core Strategy to “[p]rotect the historic environment from harmful change, including listed buildings, buildings of local importance, conservation areas, scheduled ancient monuments and historic parks and gardens.”
- 5.20. Section 5 sets out the Spatial Strategy for Cartmel Peninsula, which includes (at paragraph 5.26) an aim to address a number of challenges/key issues including “[s]afeguarding and enhancing the area’s historic assets”. This translates into Policy CS4 (Cartmel Peninsula), which states that “The Council and its partners will aim to [amongst other things] [p]rotect and enhance the diverse character and local distinctiveness of the area and promote high quality and locally distinctive design”
- 5.21. Policy CS8.2 (Protection and enhancement of landscape and settlement character) is clear that “[d]evelopment proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance [amongst other things]
- The special qualities and local distinctiveness of the area; and
  - Distinctive settlement character;
- 5.22. With respect to the historic environment Policy CS8.6 (Historic environment) is explicit that the Core Strategy supports a number of objectives, including:

“The safeguarding and, where possible, enhancing of historic environment assets, including their characteristic settings and any attributes that contribute to a sense of local distinctiveness. Such assets include listed buildings and features (both statutory and locally listed), conservation areas, scheduled ancient monuments and registered parks and gardens.

“The production of conservation area management plans to identify and explain how the Council will seek to preserve and enhance the special interest of such areas. [and]

“The safeguarding and, where possible enhancement of, locally important archaeological sites and features within the historic environment.”

### South Lakeland Development Management Policies Development Plan Document (DMDPD)

- 5.23. Subject to other policies in the development plan, Policy DM1 (General Requirements for all development) states that development will be acceptable provided, amongst other things, it “ensures the protection and enhancement of the District’s natural, built and historic environment qualities [...]”.
- 5.24. Policy DM2 (Achieving Sustainable High Quality Design) states that development will be supported provided certain design principles are met. Insofar as heritage assets are concerned these include ensuring that development: (1) responds appropriately to local and settlement character and reinforces and promotes local distinctiveness; and (2) responds appropriately to local context, landscape and built and natural environment setting.
- 5.25. Policy DM3 (Historic Environment) states that “Development proposals will safeguard and, where appropriate, enhance all heritage assets and their settings, in a manner that is appropriate to their particular significance.” It then goes on to provide general advice on “Assessing Significance and Impact” and more detailed advice on what that means for: (1) listed buildings; (2) historic parks, gardens and landscapes; (3) conservation areas; and (4) non designated heritage assets of local significance. Where relevant this advice is referred to under subsequent headings below.

### NPPF and Government’s Planning Practice Guidance

- 5.26. Section 16 of the NPPF, Conserving and enhancing the historic environment, provides Government policy on how local planning authorities should meet their statutory obligations in respect of heritage assets, as set out above. The thrust of the Government’s policy insofar as it is relevant to the current planning application is summarised below.
- 5.27. In determining applications that are likely to affect heritage assets, paragraph 189 of the NPPF establishes that:

“ ... local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”

- 5.28. Paragraph 190 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including development affecting the setting of a heritage asset, taking account of available evidence and any necessary expertise. Local planning authorities are required to take this into account when considering the impact of a proposal on a heritage asset.
- 5.29. The NPPF defines “significance” for the purposes of applying its heritage policy as:  
“The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site’s Statement of Outstanding Universal Value forms part of its significance.”
- 5.30. “Setting” is defined as:  
“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”
- 5.31. In determining applications, paragraph 192, requires local planning authorities to take account of:  
“the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;  
“the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and  
“the desirability of new development making a positive contribution to local character and distinctiveness. “
- 5.32. When considering the impact of a proposed development on the significance of a designated heritage asset, paragraph 193 is clear that great weight should be given to the asset’s conservation. This is irrespective of the level of any potential harm to its significance.

- 5.33. The NPPF defines “conservation” for the purposes of applying its heritage policy as:  
“The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.”
- 5.34. Paragraph 194 states that any harm to, or loss of, significance to a designated heritage asset, should require clear and convincing justification. Paragraph 195 states that  
“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss ...”
- 5.35. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 196 is clear that this harm should still be weighed against the public benefits of the proposal, albeit that those benefits are not explicitly required to be “substantial”.
- 5.36. In answer to what qualifies as substantial harm, the Government’s Planning Practice Guidance offers the following:  
“What matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset’s physical presence, but also from its setting.  
“Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.  
“While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.”

## Discussion

- 5.37. The application is supported by a Heritage Impacts Assessment (HIA)<sup>2</sup>. This is available to view in full online. The document concentrates on the proposed landscape interventions; it implicitly assumes that the works of repair to The Promenade and the seawall are neutral in their impact. Given that these works effectively propose like-for-like replacement of materials that is not an unreasonable assumption. In fact, one could reasonably conclude that the repair works are an enhancement.
- 5.38. The HIA undertakes a scoping exercise and concludes that the proposals are only likely to impact upon the significance of four heritage assets:
1. Grange Over Sands Railway Station (Grade II Listed);
  2. Bandstand in Park Road Gardens (Grade II Listed);
  3. Grange over Sands Lido (Grade II Listed); and
  4. Grange-over-Sands Conservation Area
- 5.39. The impacts upon the three listed buildings are to their setting only; there are no works proposed to the fabric of these buildings. The impacts upon the conservation area are direct; the proposed works all fall within its boundary.
- 5.40. The HIA summarises the significance of each asset, and then assesses the potential impacts – all in the manner anticipated by the NPPF. And the conclusions are that the impacts are neutral in each case. The detail of this can be followed through in the full document, but, in essence, the individual and cumulative impact of the proposed structures are considered to cause no harm to the essential architectural and historic qualities of the heritage assets concerned. The interventions will generally be seen as minor visual elements in the broad sweep of The Promenade and where they feature more significantly in the immediate setting of the listed buildings their sensitive design would not appear out of place. This is judged to be a reasonable assessment and leads to a conclusion that the legislative and policy imperatives are met in this case.

## 6.0 Conclusion

- 6.1. The application proposes essential repairs to the entire length of Grange Promenade together with a number of landscape “interventions: freestanding information panels addressing a range of topics of relevance to the location and context.

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<sup>2</sup> Heritage Impacts Assessment, Proposed Improvement Works to The Promenade, Grange-over- Sands, Cumbria, 14 February 2020, Paul Butler Associates

- 6.2. The principal planning issues raised by the proposals are the potential impacts: (1) on the significant ecological designations which abut the site; and (2) heritage assets.
- 6.3. All of these impacts have been thoroughly assessed. An iterative design review with Natural England has culminated in a series of documents, which, taken together, confirm that there will be no adverse impact on the ecological designations concerned, subject to the enforcement of a number of restriction and controls through a Construction Environment Management Plan (CEMP). And by adopting these documents as a Habitat Regulations Assessment, and ensuring that the necessary restrictions are enforced through any planning permission, Natural England is satisfied that the local planning authority will have fulfilled its role as a competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017. The relevant legislative and policy requirements will therefore have been met.
- 6.4. The impact upon heritage assets has been reviewed through a Heritage Impacts Assessment. This concludes that the individual and cumulative impacts of the development will have a neutral effect on each of the assets concerned, which is judged to be a reasonable conclusion in the circumstances. Again, the relevant legislative and policy requirements will therefore have been met.

## 7.0 Recommendation

- 7.1. The application is recommended for approval subject to:
- c) adoption by the Planning Committee of the following documents as a Habitat Regulations Assessment to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019):
- Assessment of Likely Significant Effects (ALSE), Grange-over-Sands Promenade, February 2020, Bowland Ecology;
  - Response to Natural England, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 15 April 2020, Bowland Ecology;
  - Ecological Monitoring and Habitat Restoration and Management Plan, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 06 May 2020, Bowland Ecology; and
  - Biodiversity and Habitat Management Plan, Grange-over-Sands Promenade, Cumbria, December 2020, Bowland Ecology
- d) the following conditions:

Condition (1): The development hereby permitted shall be commenced before the expiration of THREE YEARS from the date hereof.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition (2): No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP must consolidate the embedded environmental protection measures, proposed working practices and other proposals for mitigation contained within the following reports into a single document:

- Assessment of Likely Significant Effects (ALSE), Grange-over-Sands Promenade, February 2020, Bowland Ecology;
- Response to Natural England, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 15 April 2020, Bowland Ecology;
- Ecological Monitoring and Habitat Restoration and Management Plan, BOW017/1004 Grange-Over-Sands Promenade, South Lakeland, 06 May 2020, Bowland Ecology; and
- Biodiversity and Habitat Management Plan, Grange-over-Sands Promenade, Cumbria, December 2020, Bowland Ecology

Thereafter, the CEMP must be adhered to for the entire duration of the construction phase of the project.

REASON: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (3): Once implemented, the development must proceed in accordance with the provisions of the Biodiversity and Habitat Management Plan, Grange-over-Sands Promenade, Cumbria, December 2020, Bowland Ecology.

REASON: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution,

Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (4): Construction work shall not take place outside the hours of 0800 – 1800 Monday to Friday or 0900 – 1300 on Saturdays, nor at any time on bank holidays.

REASON: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.