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Dear Mr Willison-Holt

Cumbria Wildlife Trust comments on the proposed development at Roanhead B06/2024/0024

Cumbria Wildlife Trust is the local charity working to protect biodiversity and to promote the urgent recovery of the natural environment. Our purpose is to help create a better, more wildlife-rich environment and to bring people closer to nature. We work for the benefit of local people and communities across Westmorland and Furness - and we support local people taking action to improve their neighbourhoods and their health, wellbeing and livelihoods. The Trust is supported by more than 15,000 members, 1400 volunteers and 85 staff - and is part of the national network of 46 Wildlife Trusts across the UK.

In Cumbria, we look after more than 40 nature reserves covering more than 10,000 acres. We have considerable expertise and experience in ecology and nature conservation, education and access - and we work in partnership with local communities and other organisations to deliver a wide range of nature recovery projects and programmes in partnership beyond our own nature reserves.

Thank you for giving Cumbria Wildlife Trust the opportunity to comment on this planning application.

Our views on this planning application are set out below. In summary, Cumbria Wildlife Trust has significant concerns about this application and strongly **objects** to the proposed development which we consider to be contrary to national and local planning policy. The grounds for our objection are also detailed below.

Please do not hesitate to get in touch if you have any queries or we can help further.

Yours sincerely

Stephen Trotter
C.Env., MCIEEM.



Cumbria Wildlife Trust comments on the proposed development at Roanhead B06/2024/0024

Application for Outline Planning Permission for a new resort including up to 233 eco lodge units, re-location of existing farmhouse, estate management facility, residential student training academy, staff accommodation, supporting indoor and outdoor leisure and retail facilities and associated works with access included.

1. Overview

Cumbria Wildlife Trust strongly objects to this proposed development.

We consider that the scale and nature of the proposal is completely inappropriate at this environmentally-sensitive location and that because of the likely adverse impacts on the adjacent sites, in particular Sandscale Haws National Nature Reserve, **the planning application should be rejected.**

1.1 The Trust considers that the location of the proposed development, so close to the nearby highly protected sites and their associated protected species, is highly likely to have significant and long-term adverse impacts on the integrity of the special and sensitive ecological features present.

The following designated nature conservation (and their *Qualifying Features* and adjacent functionally-linked land) sites may be affected by the environmental footprint of a resort of this size:

- Duddon Estuary Ramsar Site;
- Morecambe Bay and Duddon Estuary Special Protection Area (SPA);
- Morecambe Bay Special Area of Conservation (SAC);
- Duddon Estuary Site of Special Scientific Interest (SSSI); and,
- Sandscale Haws National Nature Reserve (NNR).

1.2 Additionally, internationally important populations of sensitive protected species including Natterjack toads (c23% of the UK population), large numbers of many breeding and over-wintering bird species and rare species of plants, fungi, mammals and invertebrates occur here and in adjacent habitats. These are likely to be sensitive to the negative environmental impacts of the proposed development.

1.3 The outline nature of this application means that none of the application is fixed, either in terms of the application itself, or in terms of any of the mitigation proposals. This is unacceptable for an application in such an obviously sensitive location.

1.4 It is essential for the avoidance of harm to protected sites and species that any mitigation proposals are able to be secured in perpetuity (for example the “No dogs policy”). The outline nature of the application, the reliance on neighbouring landowners to deliver mitigation and the unenforceable nature of the mitigation proposals mean that this is not the case.

2. Summary of the likely adverse impacts

We consider that the proposed development is highly likely to result in significant adverse **indirect** impacts and some direct impacts on the habitats listed above and their sensitive species. This is because the resort is likely to have a significant environmental footprint and cause:

2.1 A major **increase in the intensity, timing and nature of recreational disturbance**, to highly sensitive species (especially Natterjack toads and birds) and fragile associated habitats (e.g. by direct disturbance, trampling and erosion of sand dunes, wetlands and marsh).

The average daily resort population is given as 744 adults and children, (Page 33, Guest Capacity and Local Population (table), Roanhead Lodge Resort, Destination Management Plan), this equates **to 271,560 'new' visitors per year**, and we note that these figures do not include staff, day visitors or users of the proposed residential education facilities.... based on lodge occupancy alone, represent a **potential visitor increase on Sandscale Haws** and the adjacent shoreline habitats **of c. 362%**.

2.2 An **increase in litter, pollution and damaging nutrient contamination**

2.3 **Increased light and noise disturbance to sensitive species** throughout the day and evening during the construction and operation of the resort.

2.4 **New physical constraints on the ability of habitats and species to adapt** and migrate in response to **sea level rise and climate change**.

2.5 Potentially **increased levels of nutrients entering the Duddon Estuary** from sewage and waste water arising from such a large development.

2.6 Increased **cumulative impacts of development** and increased recreational and sporting activity on wildlife across the Morecambe Bay - Barrow – Millom coastline that are likely to add up to a major impact on the integrity of the sites listed above.

2.7 **Damage to the integrity of ancient woodland habitat** and **protected species** (e.g. bats) currently present within the footprint of the resort.

As a consequence of the scale of the proposed development, we do not consider it possible to mitigate or compensate adequately for the **significant negative impacts on the conservation objectives of the designated sites**. The proposed measures, as outlined in the planning application, are completely insufficient and inadequate to address these issues to a satisfactory and safe level.

Our specific objections to the proposal are outlined below:

3. Failure to meet legislative and National Planning Policy requirements

In our opinion, the applicant has **failed to demonstrate** that the proposed development:

3.1 Meets the test of **overriding national public interest** as required by legislation for developments with significant impacts on Internationally designated sites. The likely potential economic benefits of the proposed development are, at best, only evident at a local or county scale and clearly do NOT outweigh the risks to the integrity of the nationally and internationally important natural and wildlife assets and their value to the national public interest.

3.2 Is consistent with the **planning mitigation hierarchy**: There appears to have been no attempt to avoid the likely significant adverse impacts of the proposed development (e.g. by relocation to a less damaging site) and it has not been demonstrated that the likely direct and indirect impacts can be adequately mitigated or compensated by the applicant either on or off-site.

- 3.3 Has correctly assessed the **cumulative impact of the development alongside the existing pressures and stressors on the adjacent protected sites**. The analysis provided of only seven planning applications is not sufficient as these are all recent examples and are not directly related or relevant to the proposed use of the site and the cumulative factors to which it will be adding.

No assessment of cumulative recreational impacts has been provided. An in-depth holistic analysis of all recreational developments and other activity in the coastal zone between Piel Island and Millom is essential e.g. other new recreational and other infrastructure including an evaluation of levels of activity over, for example, the last 10 years. This should include the new England coastal path, other leisure facilities and housing on Walney Island alongside modelling / analysis of visitor numbers, activities and movements along the coast between Barrow and Millom. Due to increasing recreational activity in this interconnected coastal system, there needs to be an assessment of whether there is sufficient sustainable space available for displaced species in the context of a large new resort. A wider strategic analysis of recreational pressures across the Duddon Estuary to Barrow is therefore required to evaluate these cumulative impacts.

- 3.4 Will not cause significant impact on the Designated Sites to the West of the proposed development.
- 3.5 Is consistent with Government planning guidance for Ancient Woodlands. High Wood is identified and designated as Ancient Woodland. We are concerned that this proposal effects that may lead to direct and indirect impacts causing the deterioration of High Wood by:
- damaging its soil, ground flora and fungi, tree roots and increasing levels of light pollution, noise and vibration¹;
 - disrupting important dispersal and feeding habitat for woodland species (e.g. birds, insects and local bats);
 - increasing disturbance to wildlife, such as noise from additional people and traffic;
 - increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland;
 - increasing the risk of damage to people and property by falling branches or trees requiring tree management that could cause habitat deterioration.

- 3.6 Is consistent with Government guidance to Planners on sites with the presence of Natterjack Toads <https://www.gov.uk/guidance/natterjack-toads-advice-for-making-planning-decisions>. This states The Planning Authority ...
*"should ask for a survey if: distribution and historical records suggest natterjack toads may be present – or - the work is near a site with habitat that can support natterjack toads – or - the work could affect the hydrology of a site that supports the toad....
Absence of a record does not mean there are no natterjack toads. ... The ecologist will need to carry out further surveys if natterjack toads are present and likely to be affected by the proposals. For example, if development would break up connectivity and isolate populations."*

¹ <https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>

In our opinion, Westmorland and Furness Council cannot conclude that the application will not have a significant deleterious impact on the Natterjack Toad population at Sandscale Haws and Roanhead.

4. Unsatisfactory Appropriate Assessment

4.1 The Trust does not consider that the **Appropriate Assessment** provided by the applicant is sufficiently robust to inform a decision and meet the legislative requirement to show no adverse impact. The development site is at a strategically critical location adjacent to internationally designated sites - and it can so clearly affect its integrity and condition.

4.2 We consider that the quality and extent of the ecological information provided by the Developer is not adequate to provide a sufficiently robust or detailed assessment of the impacts on the adjacent National Nature Reserves/ Special Area of Conservation / Special Protection Area. Its scope, level of detail and accuracy are not of an acceptable standard. The EIA also fails to adequately evaluate the significance of the ancient woodland at High Wood or the impacts of the resort on its integrity.

4.3 As a result, we consider that the applicant has seriously under-estimated the indirect ecological effects of the development.

For example, we consider that the:

- assessments submitted with the application remain overly focused on the footprint of the development site - and no adequate assessments have been provided for the significant population of natterjack toads in the adjacent designated coastal zone, birds using the adjacent estuarine habitats or the assemblage of rare flora and habitats close to the proposed resort.
- data used in the EIA already show that the habitats within the Designated Sites may have deteriorated, already putting pressure on the 2 highlighted species. This has not been considered by the Applicant, and as such we believe this is a significant omission.
- In our view, the applicant places too much reliance on WeBS data alone and is likely to under-estimate large peaks during passage or the winter which are rarely recorded through this scheme.
- Proposed 50m buffer along the edge of the Ancient Woodland is welcomed. However, the buffer will not prevent an increase in recreational access.

4.4 The Trust has also identified and supports the key issues raised by the RSPB in their submission to the previous application, we note that no further survey work has been carried out to support this application and so these remain valid (with the exception of the comments relating to dogs-always assuming that the “No dogs” rule remains in force indefinitely):

The Breeding Birds Report (ES Appendix 6.4) states that none of the records of breeding Oystercatcher or Ringed Plover (both listed within the Duddon Estuary SSSI Citation as breeding) appear to relate to the Site or its immediate surroundings. This assertion appears to have been made solely based on a lack of nests within the application site, but it completely misses the value of the existing grassland habitats to support nesting through provision of foraging habitat without which breeding might well not happen.

Both these species attempt to breed annually between Lowsy Point and Roanhead Point. Both species, and in particular Ringed plover, are highly susceptible to recreational disturbance and accidental trampling of nests on the beach. In the past it was not possible to protect nests as these species bred over a large area of the beach.

However, recent geomorphological changes have created a substantial area of vegetated shingle on the beach directly below the proposed development site. This has created ideal wader nesting habitat and in recent years The National Trust has attempted to create safe nesting areas by roping off areas of the beach and using nest shelters for chicks. The size and scale of the proposed development and the significant increase in visitor numbers makes this unviable and poses a high risk to the future survival of local breeding populations of these species.

The assessment from the Environmental Statement – Chapter 6 that the site is of less than local importance for breeding birds is clearly flawed. This conclusion has been reached by only considering the proposed development site itself, rather than the impacts on the far more sensitive adjoining habitats where UK Red-listed breeding birds are present.

Whilst acknowledging that the Applicant is seeking to prevent recreational impacts through the provision of a 'Branded Ranger' and implementation of a 'Canine Code of Conduct', we have serious concerns over the effectiveness of this strategy, given the potential numbers of people brought in by the proposed development, we therefore conclude that the Applicant has failed to acknowledge that there will be an impact from such a huge increase of new visitors. It is our view that these pressure will impact protected species and the protected features of the protected sites. In summary, the applicant has failed to show that disturbance by people and dogs on both breeding and non-breeding bird in the Duddon Estuary Ramsar Site/Morecambe Bay and Duddon Estuary SPA have been overcome.

Without any evidence that the Applicant's recreational management measures will be adhered to, we conclude that there is insufficient information available to conclude that recreational disturbance will not negatively impact the designated sites and its associated avian features. Therefore, we suggest that The Council is unable to determine this application and must therefore refuse it or request additional information from the Applicant with which to aid determination.

4.5 The Trust is also concerned about the potential impacts on the complex geomorphology and sensitive flora of the Morecambe Bay Special Area of Conservation (SAC) and Duddon Estuary SSSI. These habitats and their species are specifically protected by this designation, and would be at risk of loss, harm and damage from the proposed development.

These include a dynamic array of designated habitat features on the Roanhead Shore, close to the boundary of the proposed development site. For example, a significant area of vegetated shingle has recently formed along with pioneer embryo dunes and pioneer salt marsh habitat. These are associated with a number of rare plants. These features, species and natural processes which are an important component of natural flood and erosion protection - are sensitive to disturbance and trampling.

4.6 The European Site Conservation Objectives for the Morecambe Bay SAC include maintaining or restoring the extent and distribution of qualifying habitats and species, the structure and function of qualifying habitats, the populations of qualifying species and the distributions of qualifying species within the site. The proposed development is incompatible with these objectives as it risks damaging or destroying qualifying habitats and also habitats used by Great Crested Newt.

The Duddon Estuary and Mosses is designated as an Important Plant Area and in excess of 500 plant species have been recorded from Sandscale Haws NNR and the immediate surrounding area, a huge proportion of the native flora.

It is a refuge for various plants of conservation concern which could be vulnerable to increased trampling and disturbance. These include:

- Coralroot Orchid (nationally Scarce; Vulnerable – GB and England)
- Dune Helleborine (Nationally Scarce)
- Marsh Helleborine (Near Threatened – England)
- Dune Fescue (Nationally Scarce).
- Upright forget-me-not *Myosotis stricta* was rediscovered at Sandscale Haws in 2019 after an absence of 100 years and this site is the only extant location for this species in the UK. Repeated surveys have shown that the population is small (<40 plants) and therefore extremely vulnerable to any increase in visitor pressure and trampling.
- Natterjack Toad.

The mycological importance of Sandscales is well illustrated by the short summary below from a survey carried out at the request of the National Trust in 2015 (updated in 2022), by Dr Irene Ridge, a national expert and former lecturer in ecology at the Open University: “*The survey has yielded one species completely new to science, 15 species that have featured in the Red Data List of threatened species and 27 more species that are rare according to the Fungal Records Database of Britain and Ireland.*” Dr Ridge concluded that “*Sandscale is a site of considerable importance for fungi in the UK*”.

4.7 Natterjack Toad and Great Crested Newt

The Trust rejects the assertion in Chapter 6 of the Environment Statement that the site has ‘only local importance for Natterjack Toad and Great Crested Newt’. This is an unsafe and probably incorrect statement based on records and well-established local knowledge. In our opinion, the footprint of the resort cannot be treated as an ecologically isolated site, given the known ecology and behaviour of these European Protected Species. The proposed development site forms an integral part of the functional area for amphibian habitat at Sandscale and Roanhead.

The Sandscale Haws SSSI Citation states: ‘The toads breed in ephemeral pools associated with a range of habitats including dune slacks, marshy grassland, bare sand and slag banks, and **hibernate and forage in the surrounding** semi-natural vegetation, artificial habitats **and semi-improved pastures**’.

An estimated 24% of the UK population of this rare and protected species (European Protected Species) is found at Sandscale according to Natural England.

The majority of the proposed development site comprises this type of habitat and yet the applicant has undertaken no specific surveys for the species either during the breeding season or the hibernation period - despite the very high probability of their presence and having reported casual sightings of natterjack toads on-site (Environment Statement Section 2.4– Incidental Observations and, Appendix 6.3, Results of Amphibian and Reptile Assessment states that Natterjacks were heard calling at Pond 14 on several occasions in April – May 2022.). Again, no new survey work has been undertaken to support this application.

Evidence for Great Crested Newt (GCN) was also found during the eDNA surveys undertaken by the Applicant. However, the Applicant suggests in Section 2.3 of their report that “*the positive eDNA count is likely to have either been a false positive, or that the pond was used only intermittently by a small number of GCN, perhaps a single individual*’. There is no evidence to support this assumption and it is an unsafe conclusion.

The report (ES Appendix 6.3, Results of Amphibian and Reptile Assessment) does not take in to account the fact that GCN is a designated SAC Feature, in addition to being a European Protected Species. At present, almost the entire population for the SAC is

restricted to Sandscale Haws NNR. This species is regularly seen in and around the National Trust compound on Hawthwaite Lane and it is very likely that GCN use hibernacula within woodland and scrub habitats within the proposed development site. The entire development site falls in to the range of GCN – foraging, dispersal and refugia sites. The proposed development would further restrict and isolate the species and thereby potentially threaten the survival of this species within the SAC. In the future, sea level rise is likely to lead to increasing saline intrusion of the dune slacks at Sandscale Haws and therefore it is a priority that more inland local breeding habitat is safeguarded, created or restored to ensure the future viability of this population.

A series of dynamic and changing pools situated on the upper shore between Sandscale Haws and Roanhead Point have been one of the most important Natterjack Toad breeding areas within the local area, and it is likely to be one of the most important areas in the entire UK. The shore at Roanhead is also of significance as it enables movement between the populations at Sandscale Haws, Roanhead, Askam and Dunnerholme. Movement of individuals between populations is extremely important for maintaining genetic diversity.

These are significant omissions in the application and in Cumbria Wildlife Trust's opinion it is not possible for Westmorland and Furness Council to determine the planning application safely without this critical information. It is important that both species are recognised and any risks to their populations are avoided.

4.8 The proposed development, which would be close to the Roanhead Shore, with access to the shore for customers, is very likely to significantly increase disturbance at the critical times of the year (April – July) and impair this critical 'corridor' functionality.

Natterjack Toads are active in the evening and at night and are highly sensitive to disturbance and predation. The proposed development is likely to have a significant impact on the nationally important Duddon population as a result of the substantial increase in visitors to the beach and dunes, impacting both breeding pools and terrestrial habitat. The key issues are physical disturbance - and also the behaviour of the amphibians in actively avoiding sources of artificial light and noise. This is a particular concern because of the proximity of new visitors who will be using the site at prolonged periods when the toads are active e.g. into the evening and night.

A development of this size and scale which is predicted to bring substantial numbers of additional visitors to the area is clearly incompatible with many of the designated conservation features of protected species such as Natterjack Toads.

The measures proposed to mitigate impacts on Natterjack Toads remain inadequate and would pose new risks to the population. Creating new concrete lined pools is likely to lead to their colonisation by common toads and competition from this species is a key factor affecting Natterjacks. Other mitigation proposals appear to rely on the provision of additional breeding pools on land outside the applicants control and therefore cannot be guaranteed. The habitat and infrastructure will require significant regular management and maintenance to retain suitable conditions for Natterjack toads that are entirely reliant on unshaded, early-successional habitat.

In order to ensure anything resembling a "no net loss" approach, let alone Biodiversity Net Gain for this species a far greater level of effort is required.

There is therefore a risk of substantial adverse impact on the population. In our view the applicant has failed to demonstrate that their proposal will not cause harm to the population in the outline planning application.

In our opinion, the applicant should be required to undertake a full assessment of the Natterjack and Great Crested Newt populations present and their use of the site before any determination can be made.

4.9 Overall, The Trust considers that the mitigation measures proposed are likely to be ineffective and inadequate to avoid, reduce or mitigate the adverse recreational impacts which would be generated by the proposed resort.

For example, the proposal to prepare a code of conduct supported by the employment of a warden / ranger to advise guests is particularly weak and unconvincing. Experience around Morecambe Bay (see Liley et al 2015ⁱ) and elsewhere, including Cumbria Wildlife Trust nature reserves in Barrow, demonstrates that this only ever has limited effectiveness.

The Appropriate Assessment mitigation measures also rely on the operator of the site funding a member of staff for the life time of the development. However, it will be difficult if not impossible for the Planning Authority to monitor and enforce such a condition after a few years and it cannot be considered to be a secure and safe option on which the planning authority can rely with confidence to safeguard the nature conservation interest in the long term.

Similarly, the “No dogs policy” is likely to be unenforceable in anything other than the short term.

These are significant omissions in the application and in Cumbria Wildlife Trust’s opinion it is not possible for Westmorland and Furness Council to determine the planning application safely without this critical information. It is important that both species are recognised and any risks to their populations are avoided.

5. The proposed development is contrary to ‘saved’ Planning Policies in the Local Plan:

The Trust considers that the proposed development is also contrary to the following planning policies in the Local Plan which have been ‘saved’ by Westmorland and Furness Council:

5.1 C2 Development and the Coast b) *“Development is only permitted where there is no unacceptable harm to habitats or species”.*

In the Trust’s opinion this development will clearly cause unacceptable harm to both habitats and species and therefore should not be permitted.

5.2 C3 Water Management *“Applicants wishing to discharge to the public sewer will need to submit clear evidence demonstrating why alternative options are not available.”*

It is proposed that waste water and sewage generated by the resort will be pumped to the Askam Waste Water Treatment Works for treatment. Given concerns and uncertainty about safeguarding the nutrient pollution status of the Duddon SAC, we consider that it would not be safe for the Council to grant planning permission without a full assessment that this facility has the capacity to remove this additional nutrient loading prior to discharge into the Duddon Estuary. The development should not be permitted if it releases additional pollution into the estuary. It is suspected that the development may also include a swimming pool, if so, where will its waste water go?

5.3 C7 light pollution b) *“The proposal has no significant impact on a protected site or species e.g. it is located on or adjacent to a designated European site or where there are designated European species that might be affected.”*

d) *“the proposal has no impact on wildlife when being proposed close to sensitive wildlife receptors or areas”.*

The site is nationally important for Natterjack toads (and other species) which are highly sensitive to light disturbance but the application provides little or no detail of how this significant risk will be avoided. Natterjack toads are nocturnal and an easily disturbed species which is highly likely to be using and critically dependent on the entire foreshore and dune system adjacent to the development.

In the Trust’s opinion, the proposal is likely to have a significant impact on the site and species due to the close proximity of protected habitats and species to the development. The adjacent site will receive a significant increase in the intensity, duration and impact of light pollution and disturbance compared to its currently relatively undisturbed state.

Increased light pollution is not only likely to arise from the ‘usual’ daily operation of the resort’s physical infrastructure (e.g. light sources from buildings, paths and chalets). It is also likely that the anticipated and understandable behaviour of guests enjoying their coastal holiday will result in significantly increased light and noise pollution - and disturbance from the resort’s new recreational activities which will run into the evening and night time (e.g. walking, playing, barbecues, parties etc).

We do not consider that the proposed mitigation to address these issues will be effective or sufficient to avoid the impacts. As these are almost entirely reliant on having staff present and ‘wardening’, it will be impossible for the Planning Authority to monitor, enforce or take remedial action for the effectiveness of the mitigation on a 24 hours and 365 days per year basis– or indeed be able to hold the applicant to the requirements of any planning conditions for the lifespan of the resort.

This is especially relevant as the task of ‘policing’ guest behaviour to ensure compliance with any conditions will probably be perceived as being negative or difficult from a customer care perspective. Effectively ‘managing’ the range of customer behaviour that causes disturbance is not in the commercial interests of the resort as it may well reduce customer satisfaction levels and repeat visits. Experience elsewhere indicates that, in any case, ‘wardening’ of undesirable behaviour is a very difficult and only partially successful approach even when delivered by experienced and skilled staff.

Given these concerns, we consider that the proposed development is unable to meet the policy requirements.

5.4 N3 *Presumption in favour of the preservation and enhancement of sites of international and national importance.*

The likely significant impacts of the application on the sites of international, national and local importance are specific, and it is not therefore acceptable to permit a damaging application under this policy. Disturbance is a key issue.

The EIA provided by the applicant does cover disturbance issues, but is mainly focussed on disturbance to wintering birds. It doesn’t adequately cover any other form of disturbance, such as to the Sandstone NNR.

The proposed development would lead to up to roughly 1000 people being on-site at any time within a few 100 metres of Sandscale Haws National Nature Reserve and resulting in a significant increase in visitor pressure.

On top of this the resort is actively attempting to attract day-visitors to its more than 6,500m² of retail/leisure floorspace which will be open to the public as well as residential customers. The beach and coastal location will inevitably be part of the marketing strategy and hence overall the number of visitors to Sandscale Haws is likely to be large and significantly higher than the carrying capacity of this fragile site.

This will have inevitable ecological and physical impacts. Paths will get bigger, there will be increased eutrophication, an increase in trampling and compaction, increased disturbance, increased litter and so forth.

It is important at this point also to note that the current levels of recreational pressure are already causing problems on the site. Currently, the National Trust reports that it is difficult to balance access and conservation needs under existing visitor levels. Management of the site will inevitably become more difficult and more expensive, there will be more disturbance to the grazing animals, the litter will need picking up, increased path erosion will need management.

The main mitigation proposed for the disturbance issues is having a ranger, primarily to educate people about disturbance issues supported by a code of conduct. The Trust does not consider that this is in any way adequate (also see 2.3), once off the development site itself, who is going to deal with people and their behaviour? What happens on the warden's day off or out of hours? These are issues the Trust is familiar with from South Walney and other sites around Morecambe Bay where there is high visitor pressure. We know that people frequently don't accept or follow advice about their behaviour even in the presence of rangers staff.

The EIA makes no consideration of increased disturbance at a wider scale across the Morecambe and Duddon Estuaries. The whole coast from Millom round into Morecambe Bay is internationally designated. It is already affected by disturbance. The internationally designated sites are already disturbed by various recreational and sports activities (kite surfing, jet skiing, canoeing, dog walking etc) but again there is no consideration of this at all in the wider strategic context and or any assessment of whether the resort will have a significant cumulative impact on top of existing pressures.

The EIA correctly identifies Natterjack Toads as an important issue but does not adequately assess the impacts on the adjacent sites. There are toads in the pools immediately adjacent to the development, which will be affected by increased use of the beaches and disturbance from lighting and noise.

The mitigation suggested for Natterjack Toads runs the risk of adversely affecting the population through increased competition from other amphibian species. The other mitigation suggested relies on the cooperation of the adjacent landowner and would itself need to be assessed for its impact on SSSI/SAC features.

5.5 Conservation Objectives for the adjacent SPA and SAC

An additional concern is that the EIA fails to consider the impact of the development on the statutory conservation objectives for the adjacent Duddon Estuary (please see Table 1 below).

It cannot therefore be concluded that the preservation and enhancement of the protected site has been safeguarded. In our view, the Council has a specific legal duty to support the

delivery of these objectives and, wherever appropriate, to take opportunities to promote and enhance their delivery to provide net biodiversity gain and contribute to the local nature recovery network, given the current UK wildlife crisis.

The proposed development therefore fails to meet this critical planning policy.

Table 1 Conservation Objectives for the Duddon SPAⁱⁱ

<p>Issued 25 May 2001 Duddon Estuary SPA</p> <p>4. Conservation objectives for SPA interest features Under Regulation 33(2)(a) of The Conservation (Natural Habitats &c.) Regulations 1994, English Nature has a duty to advise other relevant authorities as to the conservation objectives for the European site.</p> <p>The conservation objectives for the Duddon Estuary European marine site interest features are provided below and should be read in the context of other advice given in this package, particularly:</p> <ul style="list-style-type: none">• the attached maps showing the extent of the sub-features (Appendices I & II);• summary information on the interest of each of the features; and• the favourable condition table, providing information on how to recognise favourable condition for the feature and which will act as a basis for the development of a monitoring programme. <p>4.1 The conservation objective for the internationally important populations of the regularly occurring Annex 1 bird species Subject to natural change, maintain in favourable condition⁵ the habitats for the internationally important populations of the regularly occurring Annex 1 bird species, under the Birds Directive, in particular:</p> <ul style="list-style-type: none">• Shallow coastal waters <p>Numbers of bird species using these habitats are given in Table 1</p> <p>4.2 The conservation objective for the internationally important populations of regularly occurring migratory bird species Subject to natural change, maintain in favourable condition⁵ the habitats for the internationally important populations of regularly occurring migratory bird species, under the Birds Directive, in particular:</p> <ul style="list-style-type: none">• Intertidal mudflat and sandflat communities• Intertidal and subtidal boulder & cobble skear communities• Saltmarsh communities <p>Numbers of bird species using these habitats are given in Table 1.</p> <p>4.3 The conservation objective for the internationally important assemblage of waterfowl Subject to natural change, maintain in favourable condition⁵ the habitats for the internationally important assemblage of waterfowl under the Birds Directive, in particular:</p> <ul style="list-style-type: none"><input type="checkbox"/> Intertidal mudflat and sandflat communities<input type="checkbox"/> Intertidal and subtidal boulder & cobble skear communities<input type="checkbox"/> Saltmarsh communities <p>Numbers of bird species using these habitats are given in Table 1</p>
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5.6 Cumbria Coastal Strategy (Shoreline Management Plan) and coastal change

The proposed development is also contrary to the Shoreline Management Plan. The proposed development is located in cell **11c16 Duddon Estuary**.

This is a priority section for the Strategy (11c16: Duddon Estuary: PUs c16.3, c16.4 to c16.5, c16.10 and **c16.11/ d1.1**) because it is a key flood risk area, with large tracts agricultural land and properties potentially at risk around margins of current estuary and river floodplains, together with associated infrastructure, sections of railway line and access roads.

The **Preferred strategic approach** is to manage flood and erosion risks to the railway, other infrastructure and properties where economically and environmentally viable while allowing for realignment or withdrawal from defences along other frontages.

Specifically at 11c 16.1 Lowsy Point to Askam Piern, which includes Roanhead, the strategy applies a policy of:

“No active intervention: Allow area to function as naturally as possible and look for environmental opportunities to enhance site”.

The Cumbria Coastal Action Plan identifies: **Lowsy Point to Hodbarrow Mains** – and cites the key actions as: *Estuary wide study including geomorphological modelling and consultation to investigate **Managed realignment** viability and associated effects on the Duddon Estuary, to inform policy delivery and develop a **long-term habitat mitigation strategy, including a Habitat Regulations Assessment.***

Confirm preferred technical approach, extents of Managed realignments and potential for habitat gains and losses.

Clearly the proposed development will constrain the future ability of natural habitats within this part of the estuary to adapt to coastal change and for managed realignment to be achieved.

If the resort is constructed, it will restrict and constrain the ability for habitats to move inland and respond dynamically with rising sea level, leading to further coastal squeeze and the reduced effectiveness and benefits provided by these natural habitats which also function as sea defences. The public interest in delivering managed realignment in order to adapt to climate change and sea level rise is likely to be severely compromised by this development.

Consenting the building of new unprotected physical assets within the coastal zone at risk is contrary to the strategy of ‘no intervention’ and not sustainable.

6. Conclusion

The Trust believes that the application should therefore be refused on the grounds that it is unsound.

It fails the required legal tests for internationally designated sites and is contrary to local planning policies. Given the significance of the adjacent habitats, it would be unsafe for Westmorland and Furness Council to give outline planning permission for the development.

ⁱ Liley, D., Underhill-Day, J., Panter, C., Marsh, P. & Roberts, J. (2015).

Morecambe Bay Bird Disturbance and Access Management Report. Unpublished report by Footprint Ecology for the Morecambe Bay Partnership.

ⁱⁱ <https://publications.naturalengland.org.uk/publication/3021153?category=3212324>