

**South Lakeland District Council  
Lake Administration Committee**

**Friday, 1 July 2022**

**Encroachment Application to extend the existing  
Jetty with a traditional wooden jetty at Land  
Adjacent to Tarnedge Lakeside Windermere**

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**Portfolio:** Customer and Locality Services Portfolio Holder

**Report from:** Director of Customer and Commercial Services

**Report Author:** Frankie Flannigan – Service Delivery Manager

**Wards:** Broughton and Coniston

**Forward Plan- Not Applicable**

**Links to Council Plan Priorities:**

Working across boundaries –

Delivering a balanced community – encouraging a sustainable environment and inclusive economy, we will grow our green economy by making the best use of our parks, open spaces and lakes.

A fairer South Lakeland – N/A

Addressing the climate emergency – Improving the natural environment in and around the lake to ensure a healthy, diverse and high quality biodiversity on land and on water.

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*Please note that should the discussion on this item include requests for legal advice or clarification of legal points then the item may need to move into Part II of the Agenda in accordance with Sections 100A (4) and 100I of the Local Government Act 1972, for reasons described in Schedule 12A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 as follows:-*

*Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. (Paragraph 5)*

**1.0 Expected Outcome and Measures of Success**

1.1 That due consideration of the application be considered culminating in a decision to allow, refuse or defer the application to extend the existing concrete jetty with traditional wooden jetty.

**2.0 Recommendation**

2.1 **Delegate the authority to the Director of Customer and Commercial Services to defer the decision until we have considered the legal implications.**

(1) **Extension of the existing concrete jetty with a traditional wooden Jetty.**

### **3.0 Background and Proposals**

- 3.1 The application site comprises an area of shoreline adjacent to the Lakeside Hotel, at the southern end of Windermere.
- 3.2 The application is made to extend the existing concrete jetty with a traditional wooden jetty with wooden piles giving a length of 16.6m and 1m width with an overall encroachment area of 16.6m. The jetty will be situated within a confined area and between two existing jetties. These are approximate dimensions and a full survey will be carried out by the asset team on completion.
- 3.3 The applicants have raised the issue that boats are berthing on the existing jetties North and South therefore reducing access and egress and on some occasion's obstructing access to their jetty. With the installation of the proposed jetty extension this would then give unfettered access and egress.
- 3.3 Members must also be aware that a number of objections were received via the planning process in regards to the limited space and close proximity to other jetties.
- 3.4 Windermere Arctic Char autumn spawning occurs from October to December, with peak numbers spawning in November, on the lake bed, in shallow water 1 to 3 m deep. Spring spawning occurs from January to April, with the greatest numbers spawning in mid-February, on the lake bed, in water 15 to 30 m deep. This application has no impact on spawning.
- 3.5 The applicant has provided confirmation of the approved planning consent by the Lake District National Park Authority and a copy is attached. Environment Agency approval has also been received.

### **4.0 Appendices Attached to this Report**

<b>Appendix No.</b>	<b>Name of Appendix</b>
1	Planning notice decision
2	Notification of Environment Agency consent
3	Encroachment application
4	Location plan
5	Existing and proposed layout
6	Jetty Elevation
7	Image of existing site
7	Image of existing site
8	Applicants additional information

### **5.0 Consultation**

- 5.1 Informal consultation has taken place with the Lake Wardens and the applicants. The Service Delivery Manager is also in possession of all relevant consents, risk assessments, method statements and plans. Please see appendices

### **6.0 Alternative Options**

- 6.1 The Committee could decide to refuse the application with this location, the applicants would be amenable to revising the proposal if that was possible. Planning permission has been granted by LDNPA and approval of the Environment Agency has been issued

The Committee could decide to defer the application at this location to provide sufficient opportunity for legal advice to be obtained and considered prior to proceeding to determination.

## 7.0 Implications

### Financial, Resources and Procurement

- 7.1 A revised private encroachment agreement will be required to ensure the appropriate income is received

### Human Resources

- 7.2 There are no staff implications.

### Legal

- 7.3 As set out above, the proposed application is to extend the existing jetty in a confined space. We understand that access to the applicants existing jetty is on occasion obstructed by users of the jetties to the north and south. Legal advice on implications which may arise if the application is approved will need to be considered fully. As at the time of writing this report, legal advice has not yet been obtained. As the Committee is aware it can make one of three decisions

(1) It can approve the application.

(2) It can refuse the application.

(3i) it can defer the application to the next meeting (usually so that further information can be obtained and considered).

The decision of the Committee is final and there is no right of appeal. An Applicant cannot submit a further application for a period of 12 calendar months.

A new revised private encroachment agreement will be required following confirmation of agreed terms by the Council's Estates department. The Council's legal and professional fees in connection with the survey and on completion of the revised agreement will be recovered from the applicant.

## Health and Sustainability Impact Assessment

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No.
- 7.5 A sustainability impact assessment has not been carried out as this is an individual application which has already been granted planning permission and Environment Agency consent.

## Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? No
- 7.8 If you have not completed an Impact Analysis, please explain your reasons: No equality and diversity implications arise out of this proposal.

Risk Management	Consequence	Controls required
The Committee refuse the application.	It is likely to be challenged by the applicant	Consider the construction to proceed subject to a revised private encroachment agreement

<b>Risk Management</b>	<b>Consequence</b>	<b>Controls required</b>
Challenged from existing jetty owners North and South	It is likely to be challenged by neighbouring properties	Seek legal advice to ensure the appropriate decision is made

### Contact Officers

Frankie Flannigan, Service Delivery Manager, Phone 01539 796165,  
f.flannigan@southlakeland.gov.uk

### Background Documents Available

<b>Name of Background document</b>	<b>Where it is available</b>
Not Applicable	

### Tracking Information

<b>Signed off by</b>	<b>Date sent</b>	<b>Date Signed off</b>
Section 151 Officer	15/06/2022	16/06/2022
Monitoring Officer	15/062022	16/06/2022
CMT	N/A	

<b>Circulated to</b>	<b>Date sent</b>
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A