

Item 4a **14/00132/FUL**

Case Officer **Mr Ian Heywood**

Ward **Pennine**

Proposal **Retrospective application for the removal of part of the dam wall at Heapey Reservoir No. 8**

Location **Land 35M North-East Of Rose Cottage White Coppice Heapey**

Applicant **White Coppice Cricket Club**

Consultation expiry: 28 March 2014

Application expiry: 2 April 2014

Note: Member Site Visit 8 April 2014

Further to the resolution of the Development Control Committee of 25 March 2014, Members undertook a site visit on 8 April 2014 at 17:00hrs. It was suggested that, regardless of the outcome of the current application, the land owners (Mr D. Lomas of Rose Cottage, White Coppice and White Coppice Cricket Club) should be required to remove the pile of stone left from the works to remove part of the dam wall, and now located in the centre of the area formerly occupied by the dam wall, and that the area of hardstanding that has been created should be removed and returned to grass. This matter will be considered separately and a Member resolution will be required to progress this.

Proposal

1. Retrospective application for the removal of part of the dam wall at Heapey Reservoir No. 8.

Site Description and history

2. The site incorporates the remains of Heapey Reservoir No.8 which is situated immediately to the north east of White Coppice Conservation Area. White Coppice Cricket Club, the management committee of which being the current applicant, is itself situated at the north eastern extremity of the conservation area and the club owns a substantial section of the southern half of the eastern section of the dam wall to the former reservoir.
3. The hamlet of White Coppice itself sits to the south west of the site and to all other directions open countryside is to be found, the former reservoir itself being within the Goit Mire Biological Heritage Site. The application site is within the Chorley Council defined area of open countryside.
4. The site is adjacent to a number of public footpaths.
5. This former reservoir was constructed around 150 years ago, in part, as a cascade that originally provided a mill dam for the supply of water power to White Coppice Mill. The mill was largely the raison d'être for the settlement at White Coppice and was demolished in the 1960s. Since the closure and demolition of the mill this series of reservoirs has been utilised by anglers. Anecdotal evidence suggests that no.8 was previously used as a hatchery by Wigan District Angling Association.
6. The reservoir itself was drained in February 2011 by its former owners, Wigan District Angling Association prior to the land formerly occupied by the reservoir being sold the current owner of Rose Cottage, White Coppice, Mr David Lomas in October 2012. This property is immediately adjacent to the former reservoir and to White Coppice Cricket Club.
7. The reservoir was drained by Wigan District Angling Association following an inspection by a suitably qualified engineer in 2009 and a subsequent report in 2011. This report made a number of recommendations, amongst these was the decommissioning of the reservoir, which is achieved by draining it and permanently opening the outflow gate valve.

8. The current owner, Mr David Lomas, acquired the land upon which the former reservoir was located in October 2012. He was passed copies of the engineer's report commissioned by Wigan and District Angling Association and based upon the suggested actions contained therein took it upon himself to remove part of the dam wall to the former reservoir.
9. A certificate of discontinuance for the reservoir was issued on 31 March 2013 and the discontinuance has been further confirmed by the Environment Agency.
10. Mr Lomas was misinformed by the consulting reservoirs engineer who advised him that removal of part of the dam wall did not require planning permission. A section of the dam wall was removed by contractors acting on behalf of both Mr Lomas and White Coppice Cricket Club, the joint owner of the dam wall, in late 2012/early 2013. The removed material was distributed across the site by the contractor – i.e. it was not removed from the site. At the same time Mr Lomas created a parking area/hardstanding on land that had previously been part of the area covered by the dam wall. This action was considered by the Council to constitute an engineering operation that requires the benefit of planning permission.
11. Enforcement action by Chorley Council ensued in 2013 with the result that Mr Lomas submitted a retrospective application for planning permission in October 2013. Unfortunately this application was subsequently found to be invalid because of a misunderstanding on the part of the applicant as to the extent of his legal title – he mistakenly believed that he was the legal owner of the whole of the dam wall, where in fact the structure is partly owned by White Coppice Cricket Club, partly owned by Mr Lomas and a third part is currently unregistered.
12. As a result that application, 13/01015/FUL, was withdrawn on the understanding that a new application was made and that the correct ownership certificates were signed and the appropriate notices served. So far only White Coppice Cricket Club has submitted a valid application, which is the subject under consideration here. Mr Lomas has made an application, however at the present time this is invalid.
13. The now empty reservoir has, since February 2011, developed new vegetation and a whole new series of ecosystems. Water still drains through the area and outflows at the original outflow pipe at the western end of the dam wall where an approximately 800mm pipe connects it to reservoir no.7, situated further 'downstream' within White Coppice Village.

Recommendation

14. It is recommended that full planning permission is granted.

Main Issues

15. The main issues for consideration in respect of this planning application are:
 - The visual appearance of the area and the impact upon the character of the White Coppice Conservation Area.
 - Ecology
 - Flood Risk
 - Traffic and Transport

Representations

16. A petition with 19 signatures and a further 71 letters of objection have been received. These cite four reasons for objection in the following numbers. Harm to the visual amenity - 77, harm to ecology/wildlife – 15, Increased incidence of flooding – 8 and increased traffic hazard – 1. One letter of support has been received stating that the site of the former reservoir now contains a wider variety of ecology than was previously the case.

Response to objections

17. As can be seen the vast majority of objections concern the harm that has allegedly been caused to the visual amenity of the area. It is important to note at this stage that this application does not concern the removal of the water from and the subsequent decommissioning of the reservoir. Removal of water from a reservoir, whilst it can have a significant effect upon the appearance of an area, does not require planning permission.
18. It is considered that in this case the significant change to the appearance of the area has been brought about by the draining of the water from the now former reservoir. Whilst the removal of part of the dam wall has had some impact, it is considered that the views across that site that this has opened up are equally attractive, possibly more attractive than that which was previously the case, particularly when viewed from White Coppice Cricket Club. A significant number of visits using the public footpaths in the area originate from the cricket club car park,

where visitors often frequent the café at the club house. From this location the removal of part of the dam wall has opened up views to open countryside beyond the former reservoir. As stated previously the removal of the water from the reservoir does not form part of this application and therefore should form no part of the consideration here. The only area for consideration is the impact of the removal of part of the dam wall to the former reservoir upon the appearance of the area. That being the case it is considered that the works which form the basis of this application have not materially harmed the character of the area.

19. The replacement of rusting steel railings by a typical agricultural stock-proof fence is considered to be entirely appropriate in this rural setting.
20. In terms of harm to ecology/wildlife no firm opinion is expressed by Lancashire County Ecologists as no evidence was supplied with the application upon which their opinion could be based. Without this they can only offer conjectural opinions. The applicant has been asked to supply an ecological report to rectify this. Observational evidence from site visits suggests that the removal of part of the dam wall has had little impact upon the ecology that may have been present within the dam wall. The most obvious change to ecology has occurred after the draining of the reservoir and is consequently not under consideration here.
21. The material removed from the dam wall has been distributed over the land immediately adjacent to the cricket pitch, not into the former reservoir.
22. The Environment Agency confirms that the works have not increased the likelihood of flooding in the area. This opinion is confirmed by a lack of any flooding in the area despite the incidence of the highest ever recorded rainfall during recent winter months.
23. The concern for increased traffic hazard arises from the alleged installation of a new gate at the end of the single access track to the properties at the eastern end of White Coppice. This assertion is inaccurate as the gate has been in situ for a number of years and has not in fact been recently erected. This is a private, unadopted road that only serves the properties in this part of White Coppice. It is not considered to create any highways hazard.

Consultations

24. **Heapey Parish Council** objects on the basis of the harm caused to the visual amenity of the area.
25. **County Councillor Kim Snape** objects to the application on the grounds of the harm to the visual amenity of the area, harm to wildlife, increased chance of flooding and harm to the setting of White Coppice Cricket Club.
26. **Lancashire County Council (Ecology)** neither objects to nor supports the application. They have not undertaken a site visit and offer no clear opinion on the possible impact of the works upon the ecology that may have formerly been supported by the dam wall. In the absence of any ecological information appertaining to the period before the dam wall was removed it is only possible to guess at any implications that the works have had.
27. **The Environment Agency** raises no objection to the application. It reaffirms the view it previously stated under the now withdrawn application – 13/01015/FUL that the works do not increase the likelihood of flooding.
28. **Lancashire County Council (Lead Flood Authority)** – No comments have been received, despite repeated requests. However Councillor Kim Snape did receive a response that stated that LCC Lead Flood Authority would not be making comment on the application as the issue had already been covered by the Environment Agency.

Assessment

Visual Appearance of the Area – Character of White Coppice Conservation Area

29. As stated above it is considered that the removal of part of the dam wall to the former reservoir has had no material impact on the character of the area. Whilst the works have undoubtedly changed the appearance of the area it is considered that the overall character of the area, post draining of the reservoir, has not changed. Views from within the conservation area across the site formerly looked at a green dam wall with rusting steel railings running across the top to trees and open countryside beyond. Views to the south from the northern side of the dam wall were limited to some extent by the dam wall, however as the footpaths in the area are situated

on an elevated embankment it was still possible to see the cricket club and the village beyond to some extent.

30. The views now are unrestricted across the whole of the area and to a certain extent these have been improved as a consequence. The principal change to views within this area took place with the draining of the reservoir, not with the subsequent removal of part of the dam wall.
31. White Coppice Conservation Area is a designated heritage asset as defined by Annex 2 to the Framework (National Planning Policy Framework). The site is located immediately to the north east edge of the conservation area boundary. Part of the character of any conservation area can be derived by views not only within but also out with that area. In this case it is considered that the views out with the conservation area across the site have not changed sufficiently to materially affect the character or significance of the White Coppice Conservation Area. As stated previously the most significant change occurred with the draining of the reservoir, however even that change (which is not under consideration here) is considered to be not significant enough to materially affect the character or significance of the White Coppice Conservation Area.

Ecology

32. There is no evidence to suggest that the action of removing part of the dam wall to the former reservoir has had any material impact upon the ecology present in the area. As with the visual appearance of the area changes to the ecology took place with the draining of the reservoir. Anecdotal evidence suggests that this action served to increase biodiversity. For the avoidance of doubt the Council has asked the applicant to commission an independent ecology report on both the area where the dam wall has been removed and the area where the dam wall is still extant and to make an assessment of the possible change in ecology, if any, that has resulted from the removal of part of the dam wall. As the application has been made retrospectively it is impossible to make a definitive assessment.
33. Whilst an Ecology report has been requested from the applicant, none has so far been supplied.

Flood Risk

34. The Environment Agency confirms that they have no objection to the works. Lancashire County Council Lead Flood Authority has made no comments. However Councillor Kim Snape did receive a response that stated that LCC Lead Flood Authority would not be making comment on the application as the issue had already been covered by the Environment Agency. Despite repeated requests LCC has not made any comments directly to Chorley Council.

Traffic and Transport

35. It is considered that the development has made no material difference to highways safety.

Other Matters

36. An application for similar works on an immediately adjacent site has been made by Mr D Lomas of Rose Cottage, White Coppice. This application is currently invalid as the incorrect Certificate has been signed. Mr Lomas is disputing the extent of his land ownership and his solicitor has advised him to take no further action until this dispute is resolved.
37. The Council has rejected the position asserted by Mr Lomas' solicitor and has now (9 April 2014) required Mr Lomas to undertake the necessary actions to make his current application (14/00149/FUL) valid. He has been advised that failure to comply with this request could result in the Council taking enforcement action against him.

Overall Conclusion

38. It is considered that the works have not materially altered the essential character of the area. As such the application is recommended for approval.

Planning Policies

National Planning Policy Framework (The Framework): Section 12

Adopted Chorley Borough Local Plan Review 2003: Policies HT7 and HT8

Emerging Chorley Local Plan 2012 - 2026: Policy BNE8

Adopted Central Lancashire Joint Core Strategy: Policy 16

Planning History

13/01015/FUL Rose Cottage, White Coppice, Heapey, PR6 9DE

Retrospective application for the removal of the dam wall and embankment to Heapey no. 8 reservoir and the extension of the existing parking area adjacent to Rose Cottage in the area formerly occupied by the dam wall and embankment.

Application Withdrawn 27 November 2013.

Recommendation: Permit Full Planning Permission