

7<sup>th</sup> March 2022

## HPBC DEVELOPMENT CONTROL COMMITTEE

### UPDATE SHEET

#### HPK/2021/0607 Toddbrook Reservoir

1. Amended plans and supporting documentation

Following discussion with the Environment Agency (set out below) revised plans have been formally submitted indicating alterations to the design of the weir element of the proposed development. These are available on the application webpage, together with updated visualisations reflecting changes to the design of the sailing club buildings and proposed tree planting. An addendum to the landscape and visual impact assessment originally submitted has also been provided to account for the design changes made during determination. The conclusion, that the changes do not change the conclusions of the originally assessment in terms of landscape and visual impacts, is accepted.

2. Flood Risk – consultation response from Environment Agency

The Environment Agency have provided the following formal consultation response following the submission of an updated flood risk assessment and flood modelling information based on a revision to the design of the proposed weir.

#### ***Environment Agency Position***

*The Environment Agency has no objection to the proposed development. We would like to draw the LPA's attention to the following informative comments.*

#### ***Information to the LPA***

*Since your initial request for us to comment on this in October 2021 we have been in direct discussion with CRT in relation to the outcomes within the submitted flood risk assessment (ref: P11742-ARP-YL-001-001-RP-C-0107/P2). This identified that there could be slight increase in flows from the proposed reservoir spillway during 1% AEP and 0.1% AEP flood events.*

*Further to these discussions, CRT have undertaken refinements to the proposed spillway weir arrangement and forwarded updated flood risk assessment documents directly to us for review. We have reviewed the detailed and updated flood model and the following documents which we understand have been submitted to High Peak Borough Council by the applicant:*

*P11742-ARP-YL-001-001-RP-C-0030\_P3 - Toddbrook Reservoir Flood Study*

*P11742-ARP-YL-001-001-TN-C-0238 – Technical note update to FRA-P3*

*The refined design and updated assessment show that flows from the proposed reservoir spillway would be no more than the existing situation which would not result*

*in any increase in risks downstream as required by National Planning Policy Framework (NPPF).*

*We are satisfied that the above supporting documents demonstrate that the proposed development would not be at an unacceptable risk of fluvial flooding or exacerbate flood risk elsewhere. The proposed development must proceed in strict accordance with the above supporting documents and any mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA as part of an amended planning application.*

**Advice to applicant**

*This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2016 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the bank of the River Goyt which, is designated a 'main river'. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.*

As noted in the committee report, local and national planning policy require that development proposals should avoid increasing the risk of flooding elsewhere.

Particularly given the nature of the proposal, significant weight should be given to ensuring the objectives of local policy EQ 11 and NPPF paragraph 166 are met.

On the basis of the from the Agency, (and the comments previously received from the Lead Local Flood Authority at DCC) it is considered that the amended scheme would support these objectives and would therefore be acceptable in terms of flood risk, and would achieve the intended public benefits in this regard, subject to a condition requiring that the development be undertaken in strict accordance with the supporting documents referred to by the Environment Agency, and the drainage conditions as previously requested by the LLFA and United Utilities.

Updated comments have not yet been received from the LLFA in light of the amendments to the scheme and the Flood Risk Assessment addendum, but in light of the detailed assessment from the EA it is considered unlikely that the amendments would change the advice from the LLFA, but for completeness it is recommended that the final decision is delegated back to Head of Development Services (in consultation with the Committee Chair) following confirmation of this from the LLFA.

Separately, the Environment Agency have raised no objection in relation to other matters within their remit as a statutory consultee (specifically, ecology and biodiversity) and as such the assessment and conclusions on those matters within the main report are unchanged.

### 3. Response to Whaley Bridge Town Council comments

A detailed response to the initial queries and comments from Whaley Bridge Town Council was omitted from the main report. The queries raised were as follows.

- *Regarding the traffic management plan the Council would like to know if the CRT have a designed and agreed plan with DCC how the access from Wharf Road to the Park via footpath 105 addresses safety and how this path is going to be made safe.*

Following public comments, public access will be maintained from the Reservoir Road entrance and access via Wharf Road will no longer be required during construction.

- *There is a blind woman who lives on Reservoir Road the Council would like to know how this person can be helped through the construction site perhaps a taxi could be provided for her or at least some measures put in place to ensure that her specific needs are met.*

It is understood that the applicants are in close contact with this particular resident with regards how they can assist during construction. It is understood that the maintenance of access via the Reservoir Road entrance was one of the main concerns of this resident.

- *The Council requests that it is made into a planning condition that the heavy good traffic to and from the site miss the peak periods.*

The amended construction traffic management plan (accepted by DCC Highways) indicates that strict controls on the timing of construction movements would not be practical, but notes that the contractor “will make every effort to limit or avoid delivery vehicle movements during the peak congestion periods throughout the day.”

- *The Council would like to reconfirm the plans regarding the pipe work into Brookfield Pond and request that if there are any more detailed plans about this specific part of the application that the Town Council receives them.*

The application indicates that the replacement spillway will connect into the pipework providing water to Brookfield Pond. The applicants have confirmed that no changes have been made to the submitted drawings in this regard but that more detailed construction drawings will be provided, which will be secured by condition.

- *The Council would also like to know where all the spoil from the front of the dam will be taken to and request that this spoil is used to regrade the slope from the top of the Dam rather than being taken away.*

The applicants have advised that:

*Although a significant quantity of spoil will be removed, as much as possible will be re-used on site for various items that the works require – filling the existing bywash channel, reprofiling (including a berm on the dam), landscaping etc. The location for*

*any going off-site depends on its classification and is still to be confirmed (based on our soil testing we do not anticipate contamination being an issue).*

- *The Council would like to know if there is anyway the concrete could be mixed onsite to avoid the need of concrete wagons coming down Whaley Lane.*

The applicants have advised that this is not preferable for practical reasons.

- *The Council wish to comment on the softening of the two turrets that has previously been mentioned and the installation of viewing platforms, is there any confirmed plans for this?*

It is recommended that details of the final designs of the turrets should be secured by condition.

- *Finally, the Council requests that a Water Management Plan from the Environment Agency is provided to assess what affects the new spillway will have further down the Goyt River, considering its history of flooding.*

The application is subject of a Flood Risk Assessment and detailed flood modelling which has been reviewed by the Environment Agency in preparing their consultation response set out above.

#### 4. Further comments from Whaley Bridge Town Council and members of the public

Further to the above comments, a further representation was received from WBTC following completion of the report. This reiterates the concerns raised by members of the public in relation to the safety of the dam and the approach to investigating its condition, as set out in paragraphs 8.12 – 8.15 of the committee report. The Canal and River Trust have provided a response to the representation from WBTC, both of which are provided alongside this update note. The CRT response sets out in detail the statutory framework (separate to planning control) to ensuring that the proposed works are acceptable in terms of reservoir safety, the practical measures to be taken during construction, and explains the necessary sequencing of different elements of the works required at the reservoir.

A further representation was received from Mr Graham Aldred on the afternoon of Friday 4<sup>th</sup> March. The representation is provided alongside this update. The detailed response from the CRT in response to previous public comments is available on the web page for the application.

No changes arise to the conclusions on these matters in the main report.

#### 5. Effects on residents – Equality Act 2010 - Public Sector Equality Duty

Further to the assessment and conclusions with regards impacts on nearby residents during construction, members should note that the Council has an obligation to have

due regard to section 149 of the Equality Act 2010 in exercising its functions, and that this extends to planning decisions. The Act requires public authorities to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not, and to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.

Relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Public authorities must also have due regard to the need to the steps involved in meeting the needs of persons who have a protected characteristic that are different from the needs of others, for example to take account of a person's disabilities.

In the case of the current application, it appears likely that the construction phase of the proposed development will cause some disadvantage to people with disabilities: noise, vibration and disruption caused by construction, that due to a protected characteristic will impact on them more than others, and the temporary disruption to existing walking routes through the park and along Reservoir Road. This would include, but is not necessarily limited to, one particular local resident with impaired vision, who has explained that the closure of Reservoir Road entrance into the park as originally proposed would cause her difficulty in her usual day to day living and would impact on her independence. Notwithstanding that managed public access at this entrance will now be arranged, it would still appear that movements through and around the park would be more difficult than at present. Similarly, controls on construction management through planning conditions will mitigate noise, vibration and disruption caused by the construction phase but cannot be entirely removed.

Approval of the development would therefore result in some disadvantage to people with protected characteristics, though officers have worked with the applicant to ensure that the proposed development and construction phase mitigates impact insofar as possible, including imposition of conditions where appropriate. It is further noted that the effect would be for a temporary period during construction, limiting the impact.

Weighed against the potential impacts, the scheme is necessary to achieve significant public benefits as set out in the main report, including flood risk protection of the public at large and particularly those living close to the dam. More detailed consideration of the effects of the proposal on individuals with protected characteristics are set out in the report for members' consideration.

## 6. Neighbour comments

A residential neighbour to the application site, Mrs Anna Cox, has requested to speak at the committee meeting. She has submitted a plan indicating the location of her home in relation to the intended route of construction traffic, which is provided alongside this update.

## 7. Update from Sport England regarding sailing club and sports pitches delivery/reinstatement conditions

No further comments have been received from Sport England in relation to the proposed draft conditions for the timescales for provision of the replacement sailing club and sports pitches reinstatement. The draft conditions are considered to appropriately address the issues raised by SE as the statutory consultee.

8. Updated response from Environmental Health officer re landfill gas condition

With regards the gas risk condition requested by the Environmental Health Officer, they have clarified that the condition should have been worded to relate to ground gas, rather than landfill gas as originally drafted.

9. Member comments

Comments from Cllr Swift were included in the report. It should be noted that Cllr Swift is a member of Whaley Bridge Town Council, not of High Peak Borough Council, as may be implied by the inclusion of his comments in this section of the report.

10. Public access to replacement sailing club car park

The applicants have advised that specific arrangements regarding public access to the car park at the replacement sailing club have not been decided. As public access to the existing sailing club car park is understood to have been on an informal basis it is not considered necessary that continued public access to the replacement car park should be secured as part of the current application.

11. Update regarding AIA recommendation of tree works in neighbours garden

The owner of an property adjacent to the site queried that the Arboricultural Impact Assessment noted that works will be necessary to a tree in their garden. The AIA does not appear to indicate that any trees which would be removed or pruned are in the ownership of any of the adjacent dwellings.

12. Applicants' response to public comments

The applicants have asked that it be reiterated that they have provided a written summary responding to issues raised by public comments. This is available on the webpage for the application dated 02/02/2022.

13. Changes to recommended conditions

The following changes are recommended to the draft conditions listed in the main report:

*General and standard conditions*

*'Approval of temporary arrangement of play equipment during construction'*

It is now understood that these details have been agreed separately by the Leisure and Recreation team and that installation is underway. Approval of these details is therefore no longer necessary as part of the planning decision.

### *Flood Risk and Water Management*

Following the consultation response from the Environment Agency, the first condition in this section will require compliance with the Flood Risk Assessment addendum to ensure the development is acceptable in terms of flood risk.

The second and fifth conditions in this section seek the same information relating to approval of surface water drainage and maintenance (as requested by different statutory consultees) and can be consolidated into a single condition.

### 14. Recommendation

Approval subject to amended conditions as noted above.

### **HPK/2021/0347 – 3 Temple Road, Buxton**

#### Application deferred

The agent has requested that the application be deferred to allow additional, more meaningful amendments to be carried out to the proposal, providing draft plans and additional justification. An extension of time has been agreed.

### **HPK/2021/0648 – 1 Royle Avenue, Glossop**

#### 1no. representation from a local resident:

The latest comments (on the document submitted by the applicant) pertaining to the original garage at the site are incorrect

The submitted plans state that the garage was a brick construction when in fact it was wooden. It was used as a shed for storage.

It was dismantled in 1995 when the structure became unsafe.

### **DET/2022/0003 – Valley Farm, Whitehough Lane, Chinley**

No updates