



PLANNING COMMITTEE REPORT

TO: Planning Committee South

BY: Head of Development and Building Control

DATE: 15 February 2022

DEVELOPMENT: Construction of an irrigation storage reservoir using existing soil through "cut and fill".

SITE: Land at Grid Reference 506411 119161, Broomers Hill Lane, Pulborough, West Sussex

WARD: Pulborough, Coldwaltham and Amberley

APPLICATION: DC/21/1631

APPLICANT: **Name:** Ms Frances Jacob **Address:** Land Parcel South of Broomers Hill House, Broomers Hill Lane, Pulborough, West Sussex, United Kingdom

REASON FOR INCLUSION ON THE AGENDA: Pulborough Parish Council has made a written representation which discloses a material planning consideration and is inconsistent with the Head of Development's recommendation, within the consultation period, and wishes to address the Planning Committee

RECOMMENDATION: To approve planning permission subject to appropriate conditions.

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

- 1.1 The application seeks full planning permission for the construction of an irrigation storage reservoir to support animal drinking troughs for this agricultural holding. The proposed reservoir would also supply water to newly planted trees and hedges within this agricultural holding. This planning application follows a recently withdrawn Prior Approval application reference DC/21/0163, where it was considered that the extent of the works required planning permission.
- 1.2 The current troughs are mains fed and the proposal aims to switch to a new pumped supply which would be much more cost efficient, more reliable and a greater ecological resource.
- 1.3 The proposed development would involve the parcel of land, south of Broomershill Farm and north of Brooks Rew Farm, to be re-contoured to allow a reservoir of 3,577 m³ in volume to be constructed, with 2,573 m³ of this total volume above natural ground level. The intended

resulting volume would be below the current and proposed threshold of the Reservoir Act. The land re-profiling would include a bund to the south of the reservoir to protect any properties lower down the hill from reservoir bank failure and will direct the water to the fields to the east.

- 1.4 The reservoir filling would be from a bore hole on the site abstracting within the Water Act 2003 *de-minimus* volumes and would be controlled by reservoir level. This would ensure that a 500 mm free board can be maintained that would accommodate any heavy rainfall onto the reservoir surface. The design would include a piped drain to the south-eastern area from the reservoir top lip which would avoid overflow, bank erosion and protect any properties further down the hill. The reservoir would be lined with a water impermeable membrane Bentonite, a self-sealing clay based material, if punctured would close in and prevent seepage.

DESCRIPTION OF THE SITE

- 1.5 The application site is located on the eastern side of Broomers Hill Lane. The parcel of land in question is situated south of Broomers Hill Farm and north of Brooks Rew Farm. Broomers Hill House is a small organic registered farm that comprises a series of grassland fields used for animal grazing. In the past years, replanted hedgerows and trees for climate and biodiversity enhancement reasons have been lost due to hot dry weather conditions. The proposed reservoir would provide a supply of water to newly planted trees and hedges during the summer months. This would assist their establishment during the first two years of growth, by which time the root system would have developed adequately to ensure self-sufficiency.
- 1.6 The application site currently comprises of an open field pasture that is part of the overall farm holding of 20.81 hectares. The land is grazed and during peak lambing times the flock comprises up to 350 sheep and lambs. The water is supplied to the livestock via a series of troughs in the fields that are currently mains fed. The Environment Agency data states 6 litres/day is required per animal, equating to a daily total demand of 2,100 litres. The land is grazed over a period of four months which results in a requirement of 250 m³ of water from the supply.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.
- 2.2 **National Planning Policy Framework**
- 2.3 **Horsham District Planning Framework (HDPF 2015)**
 - Policy 1 - Strategic Policy: Sustainable Development
 - Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
 - Policy 26 - Strategic Policy: Countryside Protection
 - Policy 31 - Green Infrastructure and Biodiversity
 - Policy 32 - Strategic Policy: The Quality of New Development
 - Policy 33 - Development Principles

RELEVANT NEIGHBOURHOOD PLAN

- 2.4 Status – Pulborough Neighbourhood Plan has not been made as yet.
- 2.5 Pulborough Design Statement May 2013

2.6 PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/21/0163

Prior notification for the construction of an irrigation storage reservoir.

Decision Date – 18.03.2021

Prior Approval Required and Application Withdrawn

3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

- 3.2 **HDC Conservation and Design: No Objection.** It is not considered that the proposal would result in harm to the setting of the listed building Broomers Hill House. This is based on the understanding that the reservoir would be only used for the storage of water/ nature conservation and would not be used for water sports etc. which could create noise which may detract from the wider rural character of the area.
- 3.3 **HDC Drainage: No Objection.** The proposed construction will not increase the risk of flooding on the site nor are there any flood risk implications associated with this proposal.

OUTSIDE AGENCIES

- 3.4 **WSCC Lead Local Flood Authority: No Objections.** The site is shown to be at low risk from surface water flooding and the proposal will not increase the flood risk to this or other sites, therefore no objection to this application
- 3.5 **Natural England: No Objection.** Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes therefore have no objection to the proposed development. A likely significant effect can be ruled out.

Furthermore, the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

- 3.6 **Reading Agricultural Consultants: No Objection.** The proposal is considered appropriate for its intended use of supplying water to the troughs for the grazing sheep and in line with national and local planning policy.
- 3.7 **Historic England: No Objection.** The site has been evaluated by trial trenching, which located no archaeological remains. The alteration to the landscape as result of the proposed development would not alter the setting of the scheduled monument in such a way as to affect its significance.

Historic England supports the application on heritage grounds. It is considered that the application meets the requirements of the NPPF, with respect to the scheduled monument.

- 3.8 **Archaeology: No Objection.** The site has undergone a programme of archaeological trial-trenching which has confirmed that no significant archaeological deposits will be impacted by the development. Therefore, there is no historic environment objection.
- 3.9 **Environment Agency: No Objection.** The Applicant should note that *de minimis* borehole abstraction equates to 7,300m³/year at a rate of 20m³/day. However, the limit is 20m³/day

and no more – for example, this does not allow for there to be an abstraction of 40m³/day one day and none the next to balance out to 20m³/day. If the *de minimis* allowance is likely to be exceeded, then an abstraction licence will need to be obtained from the Environment Agency.

- 3.10 If the Applicant does drill an abstraction borehole then it is strongly advised that the Applicant informs the Environment Agency of this and the location.
- 3.11 The site is located on Hythe Beds, an aquifer therefore it is possible that the Applicant/contractors may intercept groundwater or springs during construction which could feed the reservoir. But utilising this source this would require an abstraction licence from the Environment Agency.
- 3.12 **Ecology: No Objection**. The site appears to be of low ecological value with hedgerows and trees to east and west. It is assumed that these features will be retained and protected during the construction of the reservoir, in which case no adverse ecological impacts are likely. It is recommended that a scheme of ecological protection during construction in the form of a Construction Environmental Management Plan For Biodiversity be secured by condition of any consent, to include the protection of retained vegetation.
- 3.13 There is sufficient information available for determination. This provides certainty for the LPA of the likely impacts on Protected and Priority species and, with appropriate mitigation measures secured, the development can be made acceptable. This will enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.
- 3.14 Although there are no specific enhancement measures proposed to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021, it is clear that the resulting water body will provide semi-natural wetland habitat, not least in the reed fringe illustrated in the email from Dove Associates dated 7th October. Impacts will be minimised such that the proposal is acceptable subject to the recommended conditions for Construction Environment Management Plan. In terms of biodiversity net gain, the enhancements proposed will contribute to this aim.

PUBLIC CONSULTATIONS

- 3.15 **Parish Council Consultation: Objection**
Pulborough Parish Council raised objection to the proposed development and requested in writing within the consultation period that this application to be heard at Horsham District Council Planning Committee meeting. The Parish Council recommends that:
- The site should be subject to an archaeological site investigation, noting that the applicant has already commenced work on site;
 - An ecological survey should be carried out;
 - If planning application is approved by HDC, should the applicant wish to abstract a higher level than 20 cubic metres/day a licence should be obtained.
 - The bund is inadequate due to flooding issues, of which HDC are aware.
 - The water neutrality calculations appear incorrect.
- 3.15 There were 7 no. support letters received during the neighbour consultation process. The following comments were made:
- Support this application as it will add biodiversity to the area
 - Wholeheartedly support the installation and creation of a lake/reservoir at this location. Proposal would enhance biodiversity with wildlife corridors being created and a new reservoir attracting and supporting new wildlife.

- Proposal would offer a greater diversity of habitat for wildlife. Also, welcome the creation of a second wildflower meadow.
- Project will support local flora & fauna, as well as supporting the hedgerow/deciduous tree with its associated wildlife, therefore in favour of project.
- Exactly what is needed, more water storage and more wildlife.
- Proposal would provide a more abundance food supply for wildlife especially in the drier months.
- Proposal would be a place of great beauty and would enhance the area.

3.16 There were 2 no. objection letters received during the neighbour consultation process raising the following concerns:

- Strongly object to the proposed Ornamental Lake, had past problems with overflow from the fields through site and do not agree to the building of this project.
- Concerned about having such a large volume of water positioned, approximately 85 metres, directly north of neighbour's property.
- Plans do not show the severity of the gradient directly north to south relevant to the position of neighbour's property, which would be the direction of any overspill or leakage from the proposed construction.
- No indication of the final positioning of the overflow pipe.
- There are two positions where the proposal can clearly be seen over 5 bar gates.
- There would be no continuing safety bund to the eastern boundary enabling any overflow to avoid neighbour property and flow into adjoining fields. The current work already carried out appears to position the bund in a straight line close to the boundary.
- Unclear how high the bund would be and if it would be reinforced
- Concerned about the validity of our current insurance and cost/ability to insure neighbour's property in the future
- Unaware of any trees and hedgerows dying in the past. Trees and hedgerows planted by previous owners are visible and appear to have survived.
- Current owners expressed to build an ornamental lake however proposal outlines a irrigation reservoir.
- Unclear if the bund already built has a keyed foundation to stop seepage under the mound of soil at ground level. Without this there is a safety risk that the bund water will seep through and potentially still cause safety issues.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Principle of Development

6.1 The application site lies in the countryside outside of the identified built-up area of any settlement. Given this location, the initial principle of the proposal moves to be considered in the context of paragraph 84 of the NPPF and policy 26 of the Horsham District Planning Framework (HDPF).

- 6.2 Paragraph 84 of the NPPF states that 'Planning policies and decisions should enable the development and diversification of agricultural and other land-based rural businesses'.
- 6.3 HDPF Policy 26 advises that the rural character and undeveloped nature of the countryside will be protected against inappropriate development, and that any proposal must be essential to its countryside location. The application site is located within the countryside outside of any defined settlement and the proposal would be for the provision of an irrigation reservoir to support animal drinking troughs and provide enhancement to replanted hedgerows and trees. On this basis, the proposal therefore accords with the HDPF strategy for development and the grant of this planning permission would represent compliance with the development plan.
- 6.4 The construction of the proposed reservoir will provide an improved and more reliable water source for the 350 sheep grazing the land alongside a greater ecological benefit. The development is considered appropriate for its intended use of supplying water to the troughs for the grazing sheep. Furthermore, due to the intended use of the reservoir for the storage of water and nature conservation, the proposal would not result in harm to the setting of the listed building Broomers Hill House.
- 6.5 The proposal would support the need of an established agricultural holding, with the design and capacity of the reservoir appropriate for the nature and scale of the intended use. It is therefore considered that the principle of development, for the construction of an irrigation storage reservoir, is acceptable, subject to all other materials considerations.

Character and appearance and Impact on Heritage Assets

- 6.6 Policies 25, 32, and 33 of the Horsham District Planning Framework (HDPF) promote development that protects, conserves and enhances the landscape character from inappropriate development. Proposal should take into account landscape characteristics, with development seeking to provide an attractive, functional and accessible environment that complements the locally distinctive character of the district. Buildings should contribute to a sense of place, and should be of a scale, massing, and appearance that is of a high standard of design and layout which relates sympathetically to the landscape and built surroundings. In addition, Policy 26 of the HDPF states that development will be considered acceptable where it does not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and/or enhances, the key features and characteristics of the landscape character area in which it is located.
- 6.7 The proposal would involve the creation of an irrigation storage reservoir using existing soil through "cut and fill". The development would be situated south of Broomershill Farm and north of Brooks Rew Farm. The size, shape and depth of the reservoir has been designed to blend in with the surrounding landscape features. The submitted site plan drawing no. FJ1.6b details the existing and proposed landscape. The reservoir would be designed to blend with the surrounding land and would have a curved outline which would help to assimilate the feature into the surrounding landscape. The outer boundary of the reservoir design would provide a wetland security feature which would provide a further transition with the immediately surrounding land.
- 6.8 It is considered that the design of the proposed reservoir would represent an enhancement to the site. The rural character of the countryside would be preserved, with the development essential to the countryside location, supporting the needs of this agricultural holding.
- 6.9 Given the siting and nature of the proposals, which would be expected within a countryside setting such as this, it is considered that the proposal would not have a detrimental impact on the wider countryside character, in accordance with Policies 26, 32 and 33 of the HDPF.

- 6.10 Policy 34 of the Horsham District Planning Framework states that development should be reinforce the special character of the historic environment through appropriate siting, scale, form and design; and should make a positive contribution to the character and distinctiveness of the area.
- 6.11 It is noted that there is a Grade II listed building located to the north of the site. Following consultation with Historic England and the Council's Conservation and Design Officer, who both raised no objections, it is considered that the proposals would not have any adverse impacts on the setting of this heritage asset.
- 6.12 As a consequence of the circumstances described above, it is considered that the proposals would accord with relevant local and national planning policies.

Impact on neighbouring amenity

- 6.13 Policy 33 of the Horsham District Planning Framework states that permission will be granted for development that does not cause unacceptable harm to the amenity of the occupiers/users of nearby properties and land.
- 6.14 The proposed reservoir would be positioned approximately 75 metres away from the closest residential property, Brocks Rew. The nature and scale of the actual reservoir would not lead to any unacceptable harm to neighbouring amenity.
- 6.15 The proposed reservoir would ensure that a 500 mm free board can be maintained to cope with any heavy rainfall onto the reservoir surface. The design would include a piped drain to the south-eastern area from the reservoir top lip which would avoid overspill, bank erosion and to protect properties to the south of the application site. The Council's Drainage Engineer has not raised any objection to the proposal, which would not result in any increased flood risk for surrounding properties and land.
- 6.16 It is acknowledged that a neighbour has raised concerns about some ground clearance works that have commenced on site, the topsoil piled on site is not the proposed bund. The applicant has provided further clarity that this soil will be removed when the reservoir is constructed and replaced by a bund which will have a key trench to control any seepage. The reservoir will be lined with a water impermeable membrane Bentonite, the chosen material, which is a self-sealing clay-based material, if punctured it will close in and prevent seepage.
- 6.17 A condition is recommended to require the submission of a Construction Environmental Management Plan with a further condition recommended in respect of working hours during construction. It is considered that these measures would be sufficient to prevent any unacceptable harm during the construction phase of the development.
- 6.18 Overall, it is considered that the proposal would not result in unacceptable harm to neighbouring amenity, in accordance with the above policy.

Ecology Considerations

- 6.19 Policy 31 of the HDPF states that proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate. The policy confirms that the Council will support new development which retains and/or enhances significant features of nature conservation on development sites.
- 6.20 The application site is of low ecological value and there is no evidence to suggest the proposal would adversely impact on protected species or habitat. A condition is recommended to require the submission of a biodiversity management plan and this

approach would be sufficient to protect any features of ecological value. It is therefore considered that the proposals would not have a detrimental impact on ecology, and overall the proposals are considered to be acceptable in this regard, in accordance with Policy 31 of the HDPF.

Water Neutrality

- 6.21 The proposed reservoir would reduce the reliance on a mains water supply for livestock, with the reservoir filled from rainfall and surface water run-off. As such, there is no clear or compelling evidence to suggest the nature and scale of the proposed development would necessitate an increased consumption of water that would result in a significant impact on the Arun Valley SAC, SPA and Ramsar sites, either alone or in combination with other plans and projects. The grant of planning permission would not therefore adversely affect the integrity of these sites or otherwise conflict with policy 31 of the HDPF, NPPF paragraph 180 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

Drainage

- 6.22 The volume of the reservoir is below the minimum volume for the reservoir to be registered under the UK Reservoirs Act. It measures a maximum 100m x 25m and has a maximum depth of 1.5m. The banks will have a 1.2m wide reed bed which will be 0.4m deep and provide a barrier for people and livestock or other animals.
- 6.23 The proposed irrigation reservoir would be filled by rainwater and de minimis borehole abstraction which equates to 7,300m³/year at a rate of 20m³/day. Exceeding the *de minimis* allowance would require an abstraction licence from Environment Agency. It is noted that the site is located on Hythe Beds, an aquifer consequently there may be the possibility of interception with groundwater or springs during construction which could feed the reservoir but utilising this source would require an abstraction licence from Environment Agency.
- 6.24 Notwithstanding the above, the application site has been identified as falling within low risk from surface water flooding, therefore the proposal would not increase the flood risk to this or other sites. Similarly, the proposed construction of a reservoir would not increase the risk of flooding on site nor would there be any flood risk implication with the proposal. Given that The Local Flood Authority at County and the Council's Drainage Engineer raised no objection to the proposal, the development is considered to be acceptable in this regard

Archaeology

- 6.25 The site is located within an archaeological notification area, due to evidence for earlier settlement activity to the north and west. The site has undergone a programme of archaeological trial-trenching which confirmed that no significant archaeological deposits will be impacted by the development. It is not therefore necessary to require further details prior to works taking place, and the proposal would have no adverse impacts in this regard.

Conclusion

- 6.26 It is considered that the proposal accords with relevant local and national planning policies, with the application recommended for approval, subject to conditions.

7. RECOMMENDATIONS

- 7.1 It is recommended that planning permission is permitted subject to the following conditions-

1 A list of the approved plans

- 2 **Standard Time Condition:** The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 3 **Pre-commencement Condition:** No development shall commence until a Biodiversity Construction Environmental Management Plan (BCEMP) has been submitted to and approved in writing by the Local Planning Authority. The BCEMP shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021 and Policy 31 of the Horsham District Planning Framework (2015).

- 4 **Pre-commencement Condition:** The development hereby approved shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following relevant measures:

- i. An introduction consisting of a description of the construction programme, definitions and abbreviations and project description and location;
- ii. Details of how residents will be advised of site management contact details and responsibilities;
- iii. Detailed site logistics arrangements (to include details shown on a plan), including location of site compounds, location for the loading and unloading of plant and materials, site offices (including height and scale), and storage of plant and materials (including any stripped topsoil);
- iv. Details regarding parking or site operatives and visitors, deliveries, and storage (to include details shown on a plan);
- v. The method of access to and from the construction site;
- vi. The arrangements for public consultation and liaison prior to and during the demolition and construction works – newsletters, fliers etc.;
- vii. Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination;
- viii. Locations and details for the provision of wheel washing facilities and dust suppression facilities (to include details shown on a plan).

The construction shall thereafter be carried out in accordance with the details and measures approved in the CEMP.

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of nearby occupiers and highway safety during construction and in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** The materials to be used in the development hereby permitted shall strictly accord with those indicated on the application form and approved plans.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** Other than agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development hereby permitted. Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees, hedging plants or shrubs of a type, size and in positions agreed by the Local Planning Authority.

Reason: To ensure the retention and maintenance of trees and vegetation on the site unsuitable for permanent protection by Tree Preservation Order for a limited period, in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 7 **Regulatory Condition:** There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether directly or via soakaways.

Reason: To prevent pollution in accordance with Policy

- 8 **Regulatory Condition:** The development hereby permitted shall be used solely for agricultural purposes only, as an irrigation reservoir, and for no other purposes, as defined in Section 336(1) of the Town and Country Planning Act 1990.

Reason: The site lies in an area where, in accordance with Policy 26 of the Horsham District Planning Framework (2015) development unrelated to an essential rural activity would not normally be permitted.

- 9 **Regulatory Condition:** No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority. Any that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 10 **Regulatory Condition:** No work for the implementation of the development hereby permitted shall be undertaken on the site except between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the Local Planning Authority

Reason: To safeguard the amenities of nearby residents in accordance with Policy 33 of the Horsham District Planning Framework (2015).

Background Papers: DC/21/1631