

BOROUGH OF KETTERING

Committee	Full Planning Committee - 22/10/2019	Item No: 5.1
Report Originator	Sean Bennett Senior Development Officer	Application No: KET/2018/0981
Wards Affected	Slade	
Location	Cransley Eco Park CIC, The Old Filter House, Eagle Lane, Cransley	
Proposal	Full Application: Re-build former old weir house (Retrospective)	
Applicant	Mr P Stein	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. For the avoidance of doubt the planning permission relates to provision of a timber building on location B on the approved plan referenced KET/2018/0981/3.
REASON: In the interest of securing an appropriate form of development in accordance with policy 8 of the North Northamptonshire Joint Core Strategy

2. The development shall be carried out in accordance with the details approved in the provided 'Weir House Visuals' document dated 27/08/19 and referenced KET/2018/0981/10 which shall be completed within 9 months following grant of this permission and shall remain in that form thereafter.
REASON: In the interest of visual amenity and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy and to recognise the retrospective nature of the proposal.

3. The building hereby approved shall be used solely for the purposes of housing plant associated with the operations of the Reservoir and ancillary to the Filter House and for no other purposes whatsoever.
REASON: In the interest of residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

Officers Report for KET/2018/0981

This application is reported for Committee decision as a deferred item from the 4th June 2019 Planning Committee

Preamble

The application was originally reported to the 4th June 2019 Planning Committee, recommended for approval, with a proposal description that read: 'Re-build of former old weir house and sand washer buildings for use as an education centre and museum with associated parking (Part Retrospective)'

The Planning Committee resolved to defer the application for the following minuted reasons: To enable discussions regarding the following:] 'Scaled plans including elevations of the proposed buildings, the layout of the area in which the proposal is located, and travel plan options to be explored and proposals submitted eg mini bus to avoid individual cars needing to go on site for functions at the proposed learning centre.'

Following these instructed discussions between Officers and the applicant the originally submitted proposal put before the Members for consideration has been significantly altered. The amendments involved omission of the proposed sand-washer museum building and use of the old weir house as an education centre and the associated parking.

The only part of the original proposal that remains for consideration is the 'Re-build of the former old weir house (retrospective)' with its use associated with the housing of existing valves and pipework associated with the reservoir. This is the same use the previous building on the site had been used for.

Following these amendments, a full 21-day re-consultation exercise was carried out. Essentially, the amended proposal was treated as a fresh submission due to its material change in character. The application therefore is considered on this basis.

3.0 Information

Planning History

KET/1990/0344 – Outline for 14 holiday lodges/ leisure facilities, convert filter house to leisure use, redevelop club house, private sewage plant, access and parking – APPROVED – 22/10/1991

KET/1996/0610 - Outline for 14 holiday lodges/ leisure facilities, convert filter house to leisure use, redevelop club house, private sewage plant, access and parking (identical to KET/1990/0344) – APPROVED – 22/10/1996

KET/2001/0868 – Variation of Condition 1 of KET/1996/0610: Further time period – REFUSED – 19/11/2001 for the following summarised reasons:

1. Unsustainable location
2. Harm caused to the rural character of the area

3. Harmful to the character and ecology of the area as a result of disturbances and intensification of vehicular movements harmful to the highway network

This refused application was subsequently subject to an Appeal (ref: APP/L2820/A/02/1095505) and was Dismissed on the 14th of August 2003 based on Local and National Planning Policy at the time. The reasons for dismissal of the Appeal related to material changes in planning circumstances since the outline planning permission was granted in 1996 and specifically the conflict with Policy relating to reducing the need to travel by car and promoting accessibility to leisure facilities by public transport.

KET/2013/0766 - Conversion of Water Company filter house to a dwelling – APPROVED – 06/06/2014

Site Visit

Officer's site inspection was carried out on 01/03/2019, 18/04/2019 and 04/10/19

Site Description

The site lies in the open countryside approximately 2km from the western edge of Kettering (and the A14). It is situated between the villages of Thorpe Malsor, about 0.6km to the north and Great Cransley, about 1km to the south. It is accessed along narrow country lanes.

The wider site consists of a late Victorian/early Edwardian Reservoir site including dam, valve tower, disused filter beds and other plant and small buildings associated with its original use as a source of water supply. The eastern part of the site from the dam to Eagle Lane consists of woodland under a Tree Preservation (Area) Order (TPO).

The Reservoir is no longer used as a source of water supply with the Filter House directly to the east of the dam converted to a dwelling recently. The reservoir is used for water-based leisure recreation with Cransley Sailing Club based there with their associated storage building, club house, parking area and landing stage located close to the site's southern extent. To the east of the site are two buildings that once related to the Reservoir; 'The Pump House' and 'Reservoir House' which are two dwellings independent of the site. The partly-made access track makes its way between these two houses and the woodland and gives vehicular access to the Reservoir, the Sailing Club and the 'Filter House'.

The site is negotiated by Public Rights of Way (PROW) including footpath HC/003 which crosses over the dam and continues toward the north and Thorpe Malsor.

The specific part of the site that relates to this proposal is accessed via a track behind an electronically-controlled gated access which also serves the converted Filter House currently occupied by the applicant. The site consists of a 50sqm (approx.) rectangular (5x10m) piece of land which currently

comprises a partially built timber structure that replaced a pre-existing building, of a similar size and materials and to the same footprint, that fell into disrepair. This building known as the 'Old Weir House' did and does again house plant (pumps and valves) associated with the Reservoirs current maintenance regimes and therefore serves a practical function associated with the site's safe operation. The building's state of reconstruction means that the proposal is retrospective.

Proposed Development

The application seeks full planning permission for the erection of the timber building known as the 'old weir house'.

The proposed 5 x10m building is substantially complete other than some external cladding and finishing and would continue the practical function of the building it replaced housing working plant associated with the reservoir. With no other use proposed whatsoever. The working valves and pipework have been seen in place by Officers on the 14th October 2019 and remain exposed and available for use.

It is understood that the current precise functional use of the valves and pipework housed effectively operate an overflow system whereby in the event that the five disused filter beds (as closed concrete containers) fill with water then the valves and pipework enable the water to be transferred to a large underground over flow tank. This in particular would safeguard the occupiers of 'The Pump House' which is on the leeward side of the filter beds and noticeably at a lower ground level.

Visuals of the finished building have been provided showing a timber clad building with a window, doors, a canopy section and a planted roof.

The application has also been accompanied by a 'Reservoir Inspection Report' and letter from the reservoir engineer that recommends provision of the proposal *'in the interests of reservoir safety'*.

Any Constraints Affecting the Site

Local Wildlife Site (LWS) (2011) nearby
Flood Plain
TPO (Woodland) (2008)
Open Countryside
Public Rights of Way

4.0 Consultation and Customer Impact

Great Cransley Parish Council: Say that they: *'support this application as it necessary for housing work connected with the operations of the reservoir'*

Thorpe Malsor Parish Council: Object to the proposal on the following summarised reasons:

- Plans and elevations of the building have not been provided

- The images of the building provided do not reflect the building that has currently been erected or the surrounding area with no photographs provided
- Not in-keeping with the character of the site or the previous building that existed on site
- Question the functional need for the building for the following reasons:
 - None of the previous building remained on site prior to construction of the proposed which involved construction on a new concrete base
 - Not possible to access, inspect, operate, maintain or repair any valves or pipework contained within the building
 - The original building was constructed for the storage of chemicals and served no functional purpose since the storage of chemicals were no longer required at the site following decommissioning by Anglian Water
 - Bring into question the validity of the Engineer Reports provided for the following reasons:
 - Early inspection reports do not consider that the 'weir house' should be re-built and do not evidence inspection of the housed valves within the building
 - Dispute the claim that an inspection was carried out in May 2018 and suggest that the Inspection was only instigated as a response to this proposal
 - Do not believe that the Engineer was aware of the original building
 - The 1990 application do not indicate that the original building had a functional use
- Set a precedent for other development on site

KBC Emergency Planning Officer: Say that 'with the use of the building now not being changed to provide an education centre, I don't have any further comments'

NCC – Local Highway Authority (LHA): 'No objection' stated in their response

NCC – Lead Local Flood Authority (LLFA): Say that it does not meet their threshold for comments

NCC – Ecology: No comments provided at the time of writing this report

Anglian Water: Say that 'this is outside of Anglian Water jurisdiction to comment'

Natural England: Say 'no comments' in their response

Neighbours: Four third-party objections received from or on behalf of from residents of Thorpe Malsor and land users. The comments are summarised below:

- Plans and elevations of the building have not been provided
- The images of the building do not reflect the building that has currently been erected
- The building is not in keeping with the rural nature of the area and therefore is inconsistent with Local Plan Policy 10
- It is disputed that the building could be used for functional purposes or needs associated with the protection of reservoir valves and are more akin to a holiday home. A photograph of a similar brick-built building at Thorpe Malsor Reservoir used to house pipework there has been provided with a view to demonstrating that the proposed is not in-keeping historically.
- Question the need of the building with conflicting evidences provided and the findings of an instructed "highly qualified Panel Engineer from Mott MacDonald has also stated on 30th May 2019"The only valves likely to be needed for the current operation of the reservoir are bottom outlet valves which allow the reservoir to be drawn down in an emergency or for maintenance. These will be located within the valve tower on the dam and not at the weir house because they need to be able to discharge water from the reservoir into a watercourse."
- Believe that the floor of the weir house building has been recently concreted over with no pipes/valves exposed any more

5.0 Planning Policy

National Planning Policy Framework (NPPF):

2. Achieving sustainable development
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

Development Plan Policies

North Northamptonshire Joint Core Strategy (JCS):

1. Presumption in favour of sustainable development
3. Landscape character
4. Biodiversity and geodiversity
5. Water environment, resources and flood risk management
8. Place shaping
11. The network of urban and rural areas

Saved Policies in the Local Plan (LP) for Kettering Borough:

10. Environment: Cransley and Thorpe Malsor Reservoirs; the policy is as follows:

Planning permission for development at Cransley and Thorpe Malsor reservoirs will not normally be granted.

Exceptions may be considered where proposals are compatible with the peaceful rural nature of the area and:

i) do not involve the construction of new buildings unless there is a special and fully justified need consistent with the provisions of this plan or it involves conversions or redevelopment of existing buildings (for buildings of a similar size);

ii) do not involve development in prominent locations;

iii) do not compromise, reduce or involve the loss of existing recreational facilities;

iv) do not cause significant increase in the level of disturbance especially where this would be likely to harm the character and ecology of the area;

v) do not cause an intensification of vehicle movement to or from the sites onto inadequate sections of the local road network; and

vi) do not materially harm the amenities of neighbouring dwellings by reason of noise, loss of privacy or other forms of disturbance;

and in the case of Cransley:

vii) do not involve the felling of trees within the woodland tree preservation order in such numbers as to destroy its visual amenity value.

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

Preliminary Matter

Notwithstanding the retrospective nature of the development subject to this application it has been determined on its own individual merits.

The key issues for consideration in this application are: -

1. The principle of the development
2. Impact on character and appearance of the area
3. Impact on residential amenity
4. Impact on highway safety
5. Impact on biodiversity
6. Impacts of flooding/ reservoir breach
7. Response to objectors
8. Implications of the proposal being retrospective

1. The principle of the development

The site is located in the open countryside where development is severely restricted by policy 7 of the Local Plan (LP) and 11 of the North Northamptonshire Joint Core Strategy (JCS).

The proposal essentially involves re-building a previous building on the site in the same position and using the same pad foundations. This previous building fell into disrepair over the years and was derelict approximately five years ago. Since that time, it has gradually been re-built.

Critically, the previous building and now its replacement has a functional use directly associated with the safe operations of the reservoir site and houses some of its necessary plant. This necessity for the building has been discussed, in a provided letter, by the reservoirs engineer who periodically carries out safety checks associated with the operations of the reservoir. For clarity on this matter the content of the reservoir engineer's letter is copied below [Officers emboldening]:

“In addition to the problems it would cause to properties adjacent to Cransley Reservoir it is a matter of reservoir safety that the area below the dam is kept well drained. Therefore the operating system for the disused treatment plant, particularly those valves and drains which affect the under drains must be kept in working order. The valves which control the drains which were in the original valve house should be maintained. Whilst some valves at some treatment works are located outside, the fact that these particular valves at Cransley were in a building I consider significant and therefore **I would recommend that the replacement valve house be maintained in the interests of reservoir safety**”.

As such it is not considered reasonable or sensible to find argument against the proposal especially as it has sought to respect the previous building. To do so could compromise safe operation of the reservoir site going forward and its ability to cope with water ingress into the disused filter beds. No evidence has been provided either during the original consultation exercise or the re-consultation exercise that would justify coming to a different view. For this reason, the principle of the proposal is considered to be acceptable. The comments provided by the objectors are discussed more fully in section 7.7 below.

The site is covered by saved site specific policy (10) in the Local Plan (see above for full policy) due to its value as a countryside resource. It is this policy that gives opportunities for the development. Policy 10 relates to Cransley and Thorpe Malsor reservoirs whilst emphasising that planning permission will not normally be granted. Exceptions may be considered where proposals are compatible with the rural nature of the area and satisfy a number of criteria.

The various criteria mentioned above shall be picked up as the report progresses although the key wording that should be borne in mind throughout, as the golden thread, is that the proposal should be **compatible with the**

peaceful rural nature of the area; a criterion that relates primarily to the intensification of the use.

2. Impact on character and appearance of the area

Policy 10 of the LP seeks to discourage new buildings in its first (i) criterion, at (ii) seeks to avoid development at prominent locations, and at (iv) and (vii) seeks to safeguard visual amenity value of the area and in particular the woodland area covered by the TPO. These criteria are associated with the protection of the wider sites pleasant open and sylvan qualities.

Policy 8 (d) of the JCS is relevant and consistent with Chapter 12 of the NPPF seeks development to respond to a site's immediate and wider context. Policy 3 of the JCS consistent with Chapter 15 (para. 170) of the NPPF seeks development to be designed in a way that is sensitive to its landscape setting.

Due to the location of the building amongst the site's existing buildings and built infrastructure together with its limited size, form and timber construction and surrounding woodland the proposal would not have an influence in the landscape. Thereby the proposal is consistent with Policy 3 of the JCS which considers such wider impacts relating to landscape effects.

The proposed building broadly replicates a former lightweight timber structure on the site that have been shown on an applicant provided aerial photograph taken in 1976. The presence of this original building is not disputed by any party. The building may be visible from the PROW footpath (HC/003) that crosses the dam, however it would be visible at distance (70m), from an elevated position, amongst intervening trees and foliage and in the context of the sites-built infrastructure beyond the converted filter house and filter beds.

The proposal is sited on a pre-existing foundation pad, and thereby has not involved the felling of trees or clearance of vegetation. As such the proposal is considered to consist of appropriate redevelopment of a previous buildings in a discreet location consistent with Saved Local Plan Policy 10 criteria (i) and (ii). The proposal would also comply with its criterion (vii) which seeks to preserve the site's trees in the interest of its visual amenity value.

The proposal in its current unfinished state is unacceptable and thereby shall be conditioned to be finished in accordance with the details submitted within 9 months from the grant of planning permission.

There is no increased intensity of use as the building would effectively just be used in association with reservoirs operations as the previous building had. This can be ensured via condition.

Consequently, the proposal is considered to respect the character and appearance of the site and consists of a sympathetic building that would sit comfortably in its context. The application is thereby in accordance with relevant criteria of Saved Local Plan Policy 10 and JCS Policy 8 (d) which seek development to respect the character and appearance of a site and therefore is acceptable in this regard.

3. Impact on residential amenity

Policy 8 (e) of the JCS and Policy 10 (iv) of the Local Plan consistent with paragraph 127 of the NPPF, seeks to protect amenity, which amongst other things aims to secure a good standard of amenity for all existing and future occupants of land and buildings.

The non-ancillary dwelling-houses at 'The Pump House' and 'Reservoir House' have their own clearly marked private grounds with the proposed building located at least 30m from the houses. This relationship and the low profile of the building means that the proposal would not have any direct impacts to neighbour's amenity derived from its built form.

As the building is being used simply for functional requirements associated with the reservoir site and for no other use whatsoever, which can be conditioned, the proposal would not cause nuisance to neighbours, including toward the applicants at 'Filter House'.

Moreover, by virtue of the nature of the development there is no reason to suppose that it would compromise, reduce or otherwise involve the loss of the wider sites existing recreational facilities which are protected by criteria (iii) of Saved Local Plan Policy 10.

The proposal thereby is considered to be consistent with the development plan in this regard and as such acceptable.

4. Impact on highway safety

Policy 10 (v) of the Local Plan and Policy 8(b) of the JCS consistent with Chapter 9 of the NPPF seeks to ensure that development maintains highway safety.

The proposed use would not increase the intensity of vehicle movements at the site. And as such would not give rise to highway safety concerns. The use of the building shall be secured by condition. As such and with no objection from the Local Highway Authority the proposal is acceptable in this respect.

5. Impact on biodiversity

Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: *every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.*

Policy 10 (iv) of the Local Plan and Policy 4 of the JCS consistent with Chapter 15 of the NPPF seeks decisions to resist development that would harm biodiversity.

The application site and the surrounding area are excluded from the Local Wildlife Site (LWS) designated in 2011 which covers much of the surrounding woodland and the expanse of water. The area subject to the development comprised existing hardstanding and did (and would) not involve the clearing of notable vegetation. In addition, the application has not given rise to Natural England concerns with the County Ecologist not commenting having been given the opportunity to do so.

Consequently, the proposal would not have an adverse impact on biodiversity consistent with Policy 10 (iv) of the Local Plan and Policy 4 of the JCS and therefore is considered to be acceptable in this regard.

6. Impacts of flooding/ reservoir breach

Policy 5 of the JCS consistent with Chapter 14 of the NPPF seeks development to, wherever possible; avoid high and medium flood areas.

The proposal is located within Flood Zone 1, 2 and 3 and thereby within an area that would be susceptible to flood risk. The site is also within an area at risk of reservoir inundation on the landward side of the reservoir dam. The failure of the dam could lead to rapid inundation which may present a risk to life depending on the vulnerability of the use proposed.

In this case, and unlike the original submission, the application relates to provision of a building and use which is ancillary to the safe operation of the reservoir. This use is defined as being 'water-compatible development' by the Planning Practice Guidance's 'Flood risk vulnerability classification' Table.

Moreover, it is apparent that the proposed building would protect pipework and valves that had traditionally been covered by the previous building on site and which control an overflow system for the filter beds. Whilst, these beds are no longer used for water filtration they remain as closed concrete containers that may fill with water. In the event that this occurs the pipework allows water to be taken from the filter beds to a large underground tank and then be siphoned off from there. This arrangement offers safeguards from flooding, particularly with respect to the nearby leeward dwellings at 'The Pump House' and 'Reservoir House'. To potentially compromise this arrangement would not be sensible or safe even if considered on a precautionary basis.

The proposal therefore would not have adverse implications in the event of reservoir breach and would maintain current arrangements in the event of significant levels of water entering the filter beds. A safeguarding condition to secure the proposed functional use of the building going forward can be imposed.

7. Response to objectors

In direct response to the opposers points of objection:

With respect to the visual appearance of the proposal and its influence on the character and appearance of the area; this matter is discussed at Section 7.2 above. The proposal is considered to reflect a previous timber building on the

site; therefore, and for the reasons given above is found to be acceptable in this regard.

The images provided, whilst not scaled are considered to be of sufficient clarity and detail to enable an informed judgement to be made as to the merits of the proposal especially in light of the largely retrospective nature of the building with its scale and footprint already defined on site. These images do not reflect the existing building as the proposal, whilst retrospective, is not complete. As such a condition is imposed requiring the proposal to be finished within 9 months from the grant of planning permission to accord with the submitted visuals in the interest of visual amenity.

A condition requiring the building to only be used for purposes ancillary to the reservoir and in relation to the domestic use of the Filter House is attached to ensure that that it cannot be used for any other purpose in the interest of highway safety and intensity of use.

The circumstances at Thorpe Malsor reservoir may be different in terms of the building proposed however the fact is that this proposal relates to a similar building that once existed at this site and for the same purpose. As such the arrangements at a different reservoir should not, necessarily, hold rule over the acceptability of development at another reservoir. In any event every application should be considered on its own merits.

The need has been established primarily through the provision of a letter provided from the Engineer that advises on safety arrangements and has a close knowledge associated with the workings of this Reservoir as discussed at Section 7.1 above.

In contrast, the comments provided by a qualified Panel Engineer through an objector does not demonstrate the same position of knowledge and close understanding to this particular Reservoir's arrangements and needs. These comments whilst provided from a respected professional position are conjecture and discusses matters in terms of 'likelihoods' and 'ifs' rather than based on a sound understanding of the workings of this particular site. It is therefore difficult to take a position that would contradict with the opinion of applicants Engineer and their professional view that "*the replacement valve house be maintained in the interests of reservoir safety*".

In response to the objectors claims that the pipework and valves within the building had been removed or otherwise 'concreted-in' so as to prevent maintenance resulted in this Officer re-visiting the site specifically to corroborate this claim. No such corroboration can be confirmed, with the two set of pipework and valves clearly in place and available for use. As such in conflict with objectors comments the pipes and valves are still in place and therefore their assertions in this regard, wrong. The support afforded to the proposal due to its functional nature therefore is not brought into question on the basis of this matter.

It is clear that there is fear of uncertainty associated with the proposal from the objectors, however there is no reason to believe that the proposal would not be used for any purpose other than that proposed. If this was to occur at a later point, then the circumstances of that proposal can be considered at that time. The planning process is not here to consider whether a hypothetical use may be proposed at some point in the future but instead on the basis of the submitted application and its evidences. Furthermore, there is no reason to suppose that grant of this application would lead to a precedent for other buildings given its very particular circumstances and identified need.

The evidences provided by the schemes opposers and their reasons for objection are substantially specious and in part anecdotal (and in some cases found to be inaccurate) and are not considered to present a sufficiently cogent or persuasive case that could sustain a view that would justify withholding planning permission.

It is not disputed that the objectors have the best intentions behind their reasons for opposing the scheme, those being the protection of the treed and tranquil Reservoir site. The applicant appears to have the same aspirations for the site as its custodian, which includes opening up some of the wider site's private woodland areas to the public. The applicant and objectors therefore have common ground for the most part, although clearly disagree on this proposal for what is essentially a relatively minor form of development where need is established and justified and the granting of permission overarchingly; sensible.

8. Implications of the proposal being retrospective

As the proposal is retrospective, in the event that an application is refused the Local Planning Authority would be obliged to take enforcement action. As such the expedience of whether or not to take enforcement action is a material planning consideration in such circumstances and if it is considered that it would not be expedient to take enforcement action then this would amount to weight that should be applied in favour of the proposal.

In this case in the event that the proposal was to proceed without the benefit of planning permission Enforcement Action would not likely be pursued as it would be would not be expedient to do so given the lack of harm attributed to the proposal, as identified by the above discussions. This therefore is weight applied in favour of approval.

As such and whilst the carrying out of unlawful operations is not condoned, the applicant has been keen to regularise the situation and therefore the retrospective nature of the proposal should not unduly count against them with the application considered on its planning merits.

Conclusion

In light of the foregoing the proposal is considered to comply with the Development Plan and is consistent with NPPF advice. The proposal therefore comprises the right development, in the right place and constitutes sustainable development.

Consequently, and consistent with paragraph 11 of the NPPF presumption in favour of sustainable development should apply and in accordance with the Development Plan such proposals should be approved without delay. Hence, and in the absence of any opposing evidences that would justify coming to a different conclusion the application comes before the Planning Committee with a recommendation to approve subject to imposition of the conditions laid out.

Background Papers

Title of Document:

Date:

Contact Officer:

Sean Bennett, Senior Development Officer on 01536
534316

Previous Reports/Minutes

Ref:

Date:

