



21 December 2017

Mr James Stannard
High Peak Borough Council
Buxton Town Hall
Market Place
Buxton
Derbyshire
SK17 6EL

Our Ref CRTR-PLAN-2017-
23721
Your Ref HPK/2017/0429

Dear Mr. Stannard,

Proposal: Development of 6no new build dwellings (use class C3)

Location: Shire Croft, Reservoir Road, Whaley Bridge

Waterway: Peak Forest Canal

Thank you for your consultation.

The Canal & River Trust (the Trust) is the guardian of 2,000 miles of historic waterways across England and Wales. We are among the largest charities in the UK. Our vision is that “living waterways transform places and enrich lives”. We are a statutory consultee in the development management process.

The Trust has reviewed the application but is unable to make a substantive response under the Town and Country Planning (Development Management Procedure) (England) Order 2015 due to the absence of the following information:

The application site is located a short distance east of the headwall of Toddbrook Reservoir, which is owned and operated by the Canal & River Trust to supply water to the nearby Peak Forest Canal. The south-east boundary of the site adjoins one of the feeder channels linking the reservoir to the canal.

Land Stability/Impact on Canal Feeder Channel

The site has a steady slope from north-west to south-east, with ground levels dropping by between 5.5m and 3.0m from the Reservoir Road boundary to the boundary adjoining the canal feeder channel. Although a topographical survey showing existing site levels has been provided, there are no details of the proposed finished floor levels of the houses or proposed ground levels generally across the site. We note that some of the house types are designed as split-level dwellings, however, it is evident that quite significant earthmoving will be necessary to facilitate this development.

We note that an amended site layout and house type designs have been submitted and are now available on the Council's website. Our comments are based on this revised layout.

Canal & River Trust Fradley Junction, Alrewas, Burton-Upon-Trent, Staffordshire, DE13 7DN
T 0303 040 4040 E planning@canalrivertrust.org.uk W www.canalrivertrust.org.uk

Patron: H.R.H. The Prince of Wales. Canal & River Trust, a charitable company limited by guarantee registered in England and Wales with company number 7807276 and registered charity number 1146792, registered office address First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB



The Applicant does not appear to have taken any account of the potential effect of the proposed development on the stability of the slope, which in turn may affect the canal feeder channel structure, or considered whether there may be an increased loading imposed on the wall of the feeder channel as a result of the development. **In the absence of any form of slope stability assessment, or any information as to the proposed ground and finished floor levels across the site, it is not possible to determine the extent to which the development may create land instability or otherwise impose additional loadings on the adjacent feeder channel which could adversely affect its structural integrity.**

As you are aware, land stability is a material planning consideration and is referred to in paragraphs 120- 121 of the NPPF and is the subject of more detailed discussion in the NPPG (see <http://planningguidance.planningportal.gov.uk/blog/guidance/land-stability/land-stability-guidance/>). We consider that this advice and guidance is clear in identifying that the planning system has a role to play in minimising the risk and effects of land stability on property, infrastructure and the public.

We appreciate that the issue of land stability can be complex and often also involves other regimes such as Building Regulations and legislation such as the Party Wall Act 1996. However, the NPPF is clear that planning decisions should ensure that new development is appropriate for its location in the context of avoiding unacceptable risks from land instability, and being satisfied that a site is suitable for its new use, taking account of ground conditions and land instability. We therefore consider that the potential effect of this application proposal on the structural integrity of the adjacent canal feeder channel should be considered as part of the decision-making process, as it is fundamental to establishing whether development can take place as proposed.

We refer to paragraph 006 of the section on Land Stability in the NPPG which states that “developers should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development of the site”. We therefore ask that you consider the approach set out in the flow chart at paragraph 012 of the section on Land Stability in the NPPG, which suggests that investigation of potential land stability issues should be undertaken prior to determination of the application. Following receipt of adequate information identifying that any risks are acceptable or capable of mitigation to an acceptable level, the flow chart suggests that a decision can be made subject to appropriate conditions to secure any necessary mitigation. **In the absence of such information, however, it is not possible to quantify the risk of creating land instability or determine whether adequate mitigation can be secured via planning conditions.**

Flood Risk

The application site lies partially within the reservoir flood zone as identified on the Environment Agency Reservoir Flood Maps. Advice on the preparation of Flood Risk Assessments contained in the NPPG indicates that even for sites of less than 1ha within Flood Zone 1 other sources of flooding, such as reservoirs should be considered. We note that the no flood risk assessment has been submitted and that reservoir flooding has not been considered.

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Toddbrook Reservoir is already within the highest reservoir risk category, and it is unlikely that the overall level of risk will increase to the extent of triggering a requirement to undertake safety upgrades to the reservoir as a direct consequence of the proposed development. We would advise however that should a flood risk assessment identify any requirement for us to undertake further works to increase safety levels to take account of the additional dwellings which will be at risk, we would expect the cost of such works to be borne by the Applicant/Developer.

We would comment that, ideally the dwellings should be located on the higher ground towards the north-west site boundary, where the risk of flooding in the event of a dam breach would be lower, however in the absence of a flood risk assessment or details of proposed ground levels and finished floor levels, it is difficult to comment in any more detail.

Drainage/Land Contamination

No surface water drainage details have been submitted with the application. Given the site topography, it is possible that the applicant may wish to consider discharging surface water to the feeder channel adjacent to the south-east boundary. Any such discharge will require the prior consent of the Trust, and we will need to assess the acceptability of it. Any discharge proposals would also need to demonstrate that measures could be incorporated into the site drainage system to minimise the risk of contaminants entering the feeder channel and thus affecting water quality. Furthermore, during any construction operations, measures to prevent contaminants or contaminated run-off, soils, silts etc. entering the feeder channel must be implemented. These matters could be secured via suitably worded conditions requiring submission (and implementation) of a detailed surface water drainage scheme for the site and a Construction Environmental Management Plan.

Please be advised that the Trust is not a land drainage authority, and such discharges are not granted as of right; where they are granted, they will usually be subject to completion of a commercial agreement.

Conclusion

Without the information requested above in relation to slope stability and ground levels, it is not possible to assess the risk of damage to the Trust's infrastructure, or to identify any mitigation measures that may be needed to facilitate the development. We do not consider that planning permission should be granted in the absence of this information, nor do we consider it appropriate to seek to secure submission of this information via planning conditions, as the information required may have a bearing on the ability to develop the site in the manner proposed.

We will make a substantive response within 21 days from the date of receipt of this information.

If you have any queries please contact me, my details are below.



Canal &
River Trust

Yours sincerely

Ian Dickinson MRTPI
Area Planner (East and West Midlands)
ian.dickinson@canalrivertrust.org.uk
01636 675790