The Planning Inspectorate

Appeal Decisions

Inquiry opened on 20 January 2015

Site visit carried out on 4 November 2014

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 March 2015

Appeal A: APP/Z4718/A/14/2222372
Butterley Reservoir, off Wessenden Road, Marsden, West Yorkshire HD7 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Yorkshire Water Services against the decision of Kirklees Metropolitan Borough Council.
- The application No 2013/62/91775/W, dated 3 June 2013, was refused by a notice dated 24 January 2014.
- The development proposed is described on the application form as '*Reconstruction of a section of the masonry spillway at Butterley reservoir. The spillway is grade II listed. The works briefly comprise:*
  - *replacement of the existing walls with new raised walls in reinforced concrete to approximately 2.6 metres high;*
  - *overlaying the base of the spillway with a reinforced concrete slab, complete with small steps similar to the finish of the existing base;*
  - *reconstruction of the existing stepped cascade section to form a constant gradient to match the upper section of the channel;*
  - *cladding the outside of the walls with masonry. Cladding to include the use of reclaimed masonry from existing walls;*
  - *stone copings on top of the raised walls. Existing copings to be reclaimed and re-used on top of the new raised walls where possible;*
  - *using masonry effect 'formliner' on the inside face of the walls.'*

Appeal B: APP/Z4718/E/14/2222367
Butterley Reservoir, off Wessenden Road, Marsden, West Yorkshire HD7 6HH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Yorkshire Water Services against the decision of Kirklees Metropolitan Borough Council.
- The application No 2013/65/91776/W, dated 3 June 2013, was refused by a notice dated 24 January 2014.
- The works proposed are described as '*works to ensure compliance with the Reservoirs Act, comprising reconstruction of a section of the existing masonry reservoir spillway comprising replacement and raising of existing walls, including cladding to match existing stonework; works to the spillway base; reconstruction of the existing spillway cascade section; other associated works.'*

These decisions are issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decisions issued on 16th March 2015.

Decisions

1. For the reasons that follow, **Appeal A** is allowed and planning permission is granted for the reconstruction of a section of the masonry spillway and associated alterations at Butterley Reservoir, off Wessenden Road, Marsden, West Yorkshire, in accordance with the terms of the application, No 2013/62/91775/W, dated 3 June 2013, subject to the sixteen conditions set out in the schedule at Annex C attached hereto.

2. For the reasons that follow, **Appeal B** is allowed and listed building consent is granted for the reconstruction of a section of the masonry spillway and associated alterations at Butterley Reservoir, off Wessenden Road, Marsden, West Yorkshire, in accordance with the terms of the application, No 2013/65/91776/W, dated 3 June 2013, subject to the fourteen conditions set out in the schedule at Annex D attached hereto.

Preliminary Matters

3. Representatives of the Save Butterley Spillway Group (referred to hereafter as SBS) sought, and were afforded, Rule 6(6) status for the Inquiry.

4. A meeting was held on 1 October 2014 to consider administrative and other arrangements for the Inquiry. At the meeting, it was agreed that I would visit the appeal site and its surroundings, together with other reservoirs in the locality, on an accompanied basis prior to the opening of the Inquiry. That visit was carried out on 4 November 2014. I was accompanied on the visit by representatives for the Council, the appellant, and SBS. No subsequent visit was required following the close of the Inquiry.

5. Notwithstanding the descriptions set out in the headers above (which were taken from the respective application forms) the applications were amended prior to determination by the Council. Whilst the overall design principles remained the same, amendments were made to the intended form of construction. These included retention of more of the existing structure in-situ and its incorporation into the scheme; no increase in the height of the left-hand (western) spillway wall upstream of the stepped cascades; masonry facings for the internal faces of the new sections of walling (instead of a masonry-effect formliner finish); and re-profiling of the ground at the back of the raised walls, such that it would meet the height of the copings on top of the raised walling, much as it does at present.

6. Although recommended for approval, the applications were refused by Members. Following that refusal, and prior to the Inquiry, further alterations were made to the scheme. These included stepping the coping stones on the raised walls along the lower part of the spillway (as opposed to laying them in a continuous downhill slope); re-use of the curved coping stones adjacent to the large rectangular piers at the start of the lower part of the spillway; and re-use of the curved wall terminals and capped piers at the end of the extended spillway channel. The Council and SBS confirmed that they were aware of the amendments and that they had been taken into account in the preparation of the respective proofs of evidence. Since the alterations are relatively minor, relating to matters of detail, and were held by those at the Inquiry, on a 'without prejudice basis', to be an improvement over the previous incarnation of the design, those present were content that they could be considered as part of the scheme proposed without causing prejudice to the interests of any

person or organisation concerned with these appeals. I agree, and my determination is made on the basis of those revised plans (listed below as Inquiry Document 11).

7. At the pre-Inquiry meeting the appellant confirmed that, whilst the Council had not issued a screening opinion, an Environmental Statement would be submitted on a voluntary basis. This was received prior to the Inquiry and was duly publicised in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. SBS had reservations as to the adequacy of the Statement on various matters, including the assessment of the significance of the spillway and the impact of the proposed alterations on its special interest; the impact on the significance of associated heritage assets in the immediate vicinity; the level of detail in relation to the proposed alterations; and implications during the construction stage in relation to noise and vibration, air quality, traffic and transport, and water resources. However, the Planning Inspectorate carried out an assessment of the submitted information and confirmed that there was sufficient text, data and figures within the Statement to be able assess the likely environmental impacts of the development proposed, and that it was sufficient to meet the requirements of the Regulations. These matters were all examined in some detail during the Inquiry and nothing I read or heard led me to a different view.

8. The scheme proposed is intended to address identified safety problems with this masonry spillway. The various alternatives looked at by Yorkshire Water are set out in an Options Appraisal Report.[1] I made it clear at the pre-Inquiry meeting, in associated correspondence, and at the Inquiry itself, that my role in these appeals is to consider the scheme proposed on its own particular merits, not to consider whether some other option should be approved as an alternative. Those options, and other possibilities mooted at the Inquiry, are only relevant insofar as they may, or may not, provide evidence as to whether the scheme the subject of these appeals is 'necessary' having regard to the provisions of paragraph 133 of the National Planning Policy Framework.

9. In light of the information set out in the Environmental Statement, the Council confirmed, prior to the Inquiry, that it would not be defending that part of the reason for refusal in relation to the application the subject of Appeal A that related to the *'impact upon the visual appearance and setting of the landscape*'. However, SBS and others still held reservations in this regard and the matter was dealt with at the Inquiry.

10. With the agreement of all those taking part, the evidence to the Inquiry was dealt with on a topic basis (Engineering Issues/Options; Heritage/Landscape; Planning Principles and Policy). On conclusion of the Council's evidence in relation to the last of the topic areas, I was advised that the Authority would no longer be pursuing the remaining aspect of its reasons for refusal. Whilst sections 3 and 4 of the evidence of Mr Newlove were withdrawn, the remainder of his evidence, and the evidence of the other Council witnesses, remains before me.

11. In addition to SBS, a number of members of the public also took an active part in the Inquiry. Their input, both in relation to the evidence they gave

[1] Listed below as CD 1.9 Vol III

themselves, and in terms of their informed questioning of the appellant's witnesses, was very helpful to the Inquiry.

Main Issues

12. The appeals relate to proposed engineering works in the Green Belt. The National Planning Policy Framework (the Framework) makes it clear that engineering works are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. It was common ground between the main parties that there would be no harm in these regards and that the scheme could be considered as being not inappropriate in Green Belt terms. I have no reason to disagree: the works relate to an existing major infrastructure asset and the nature and function of the reservoir and its dam means that any related development is site-specific. The proposals are based on the existing footprint of the structure and do not materially alter its scale. There would be no harm therefore, to openness. Moreover, given the proximity of the spillway to other reservoir related structures, the scheme proposed would not diminish the contribution that the surrounding area makes to the purposes of Green Belt policy.

13. I have had careful regard to the matters raised by all parties and, in light of the above, I consider the determinative issues in this case to be:

- the extent and nature of the harm to the special interest of the grade II listed masonry spillway, the setting of the listed scour portal and Bottom Bank Bridge, and the significance of other nearby non-designated heritage assets;
- the effect on the character and appearance of the surrounding area, including the landscape and scenic beauty of the adjacent Peak District National Park, and the nearby Marsden and Tunnel End Conservation Areas;
- and, if there is any harm in these regards, whether there are any public benefits to weigh in the planning balance.

Background

14. Butterley is located just above the southern Pennine village of Marsden and is the final impounding reservoir within a chain of reservoirs along the Wessenden Brook which provide flood alleviation and supply water to Huddersfield and the surrounding area. Butterley is designated by the Environment Agency as a Category A reservoir, as its failure would be likely to result in the loss of ten or more lives.

15. Having inspected and reported on the reservoir in February 1999, Dr Hughes (an independent All Reservoirs Panel Engineer)[2] inspected it again in 2008. During that later inspection, water was observed disappearing into the base of the masonry spillway, there was a general hollow sound from large areas of the base, movement of stones was evident, and there was evidence of previous repairs. There was also photographic evidence showing masonry that had been ripped out of the spillway channel during a relatively small (in all likelihood a 1 in 12 year) flood event in 2002. In the light also of comparatively recent significant damage to the masonry spillways at Boltby and Ulley Reservoirs

[2] Engineers appointed by the Secretary of State to inspect, design new dams and repairs and oversee remedial works to ensure the safety of dams.

during flood events, the subsequent Statutory Inspection Report recommended that a study of the flow depths, velocities and possible pressures in the overflow channel be undertaken and that an investigation be carried out into the integrity of the spillway, in particular its performance, both hydraulically and in terms of capacity, during a significant storm event.

16. A physical model of the spillway was built and tested to gain a full understanding of how it would operate in the extreme floods it must be designed to withstand. The tests showed that whilst the upper part of the spillway had sufficient capacity to pass the design flood, the walls were not high enough within the middle of the spillway, and turbulence caused by the piers projecting into the spillway (a problem that had also been observed in the model test for another reservoir) was sufficient to send water outside the channel. Both those shortcomings would lead to erosion of the fill behind the walls, cutting into the embankment fill. In addition, the two flat areas in the mid-lower section (the cascades) created negative pressures of sufficient strength to suck out the masonry blocks – the reason for the damage in 2002. In an extreme event, that could cause the collapse of the spillway which would then move back towards the reservoir. In essence, the tests showed that the spillway at Butterley would fail, under even relatively small floods. If the spillway were to break up during a flood, the structure would quickly and progressively deteriorate. If it were to collapse, or water were to leave the spillway, that could lead to the erosion of the earth dam here which, in turn, could lead to a catastrophic failure of the structure.

17. The alterations proposed are intended to address the identified deficiencies of the spillway. In the meantime, pending works to make the spillway safe Butterley, and the other reservoirs in the chain, have been drawn down to well below maximum levels as part of a 1 in 1000 year contingency plan, in order to ensure that the spillway is not brought into use in its current state during such an event.

Proposal

18. The proposed alterations are shown on plan Nos K502-06/234 P1 and K502-06/236 P1 (Doc 11) and are based on Option 5B of the October 2014 Options Appraisal Report, as further amended prior to the Inquiry. They can be summarised as follows:

Upper section (above the cascades)

- Existing invert masonry (between the keystones that form the major step intervals) to be removed and replaced with a new concrete invert to be stepped at a similar spacing and size as existing steps. Keystones to be retained. New concrete elements of the base to be stained to blend with the existing adjacent stonework which would be retained.
- Left hand (west) wall to be retained as existing. Large pillar at the downstream end to be raised in masonry (reclaimed from existing structure where possible) and its projecting face to be made flush with the internal face of the spillway.
- Right hand (east) wall and pillars to be retained and raised in masonry to a minimum total height of 2.4 metres above invert (plus copings). Pillars to

be made flush with the internal face of the spillway. Masonry facing to inside of raised spillway wall.

- Copings on existing right hand (east) wall to be re-used on raised section of wall where possible. Ground levels to be raised locally behind raised wall.
- Edge protection and safety fencing to be provided above spillway walls.

Lower section (cascades section)

- Replacement of the stepped cascades with a new base incorporating a revised profile with a stepped top surface similar to the upstream section. New keystones incorporated into the new base to give a stepped appearance similar to the upstream section. New concrete elements of the base to be stained to blend with the existing adjacent stonework to be retained.
- Existing spillway walls and pillars dismantled as necessary, to suit new works. Where retained, the projecting face of the pillars to be made flush with the internal face of the spillway.
- Re-location and raising in masonry of curved wing walls to both sides at the downstream end of the extended spillway channel.
- Re-use, where possible, of stepped copings to tops of walls.
- Edge protection and safety fencing to be provided above spillway walls.
- Existing masonry steps on the face of the embankment, adjacent to the stepped cascades, to be re-located further from the spillway, beyond re-profiled ground.

Clay Core

- Raising of the internal impermeable element over the full length of the embankment (length - 229 metres, maximum height of raising - 0.92 metres). There would be no increase to the overall height of the dam itself.

Reasons

Heritage Assets[3]

19. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that, in considering whether to grant planning permission for any works or development affecting a listed building or its setting, special regard is to be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

The Spillway

20. There was a considerable body of evidence before me as to the special interest of the grade II listed spillway and its architectural and historic interest was not, in the main, a matter of dispute between the parties.[4] In essence, it dates from the late C19, was designed by Thomas and Charles Hawksley, noted engineers

[3] Although Conservation Areas are designated heritage assets, I have dealt with the effect of the development proposed on those nearby as part of the subsequent section on Character and Appearance.
[4] Although I acknowledge that SBS was of the opinion that the appellant's evidence lacked a depth of research and understating.

of national and international importance of the time, and is an exemplar of its type. Hawksley spillways are characteristically wide and shallow, with a sweeping curved form and a stepped base featuring cascades and stepped copings. Butterley displays all these features. In addition, notable features of this particular spillway include the stepped chamfered ashlar stone copings down the full length of the spillway; the size of the double cascade section and its chamfered curved ashlar stone steps and ashlar stone side walls; the large rectangular piers with pyramidal ashlar stone cappings which mark a change in the gradient of the channel at the start of the cascade section; the relationship of the structure with the form and contours of the embankment; and the outward curving terminals of the channel walls, ending with a final ashlar stone capped pier. Whilst some of these design features are included in the work of the Hawksleys elsewhere, I was advised that Butterley is unique in that it brings so many of these features together, at a significant scale.

21. In 1988, a new overflow weir and tumble bay were constructed at the top of the spillway. At the same time, the original cast iron pedestrian footbridge, which apparently aligned with the curve of the weir, was removed and replaced with a straight footbridge structure which aligned with the crest of the embankment. That said, notwithstanding some remedial works (including pressure grouting of the masonry of the channel base, and repairs following the flood event of 2002) the spillway itself shows little visible evidence of significant alteration and it remains as an impressive structure in terms not only of its scale, but also its design.

22. Having regard to the guidance produced by English Heritage,[5] I agree with the parties that the special interest and the significance of the spillway lies in the combination of its evidential, historical (both illustrative and associative) aesthetic and to some extent, communal value, as well as its setting, being designed as an integral part of the dam to align with the contours of the embankment and other built features thereon.

The Scour Portal

23. The grade II listed scour portal is contemporaneous with the spillway and forms an integral part of the reservoir and dam. It is located immediately to the west of the spillway and is aligned with the curved termination walls at the end of the spillway channel. It is constructed of the same materials, using the same architectural language and some of the same detailing, such as the curved wall terminals and pyramid capped terminal pillars, although the portal itself is more ornate. Its special interest and significance derives not only from its history and detailing, but also its association with the spillway and its setting.

Bank Bottom Bridge

24. This grade II listed single-span stone bridge is assumed to pre-date the reservoir. It was constructed to provide access across the natural Wessenden Brook and is a relatively simple arched structure with plain parapets that continue as a boundary wall to the south-east. The bridge now marks the point at which the culverted channel of the spillway reverts to the natural watercourse of the Brook. Its significance derives from its age, materials and simple form.

Non-designated heritage assets

[5] Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment

25. The stone-built valve house was part of the original design scheme for the reservoir. It is a small two-bay structure of typical late Victorian design, featuring stone lintels, cills and quoins with a simple gabled roof with corbelled gable parapets. Although not listed, its significance derives from it being a key built component of the reservoir and the positive contribution it makes to the value of the group and its setting.

26. Other reservoir related structures in the immediate vicinity, including the wave wall, the long flights of steps and associated walling on either side of the embankment, the flights of stone steps within the embankment, and the dam itself, can also be considered as heritage assets. Like the valve house, they are key built component of the reservoir in its wider sense and make a positive contribution to the value of the group and its setting.

Extent of harm

27. Some of the key features/attributes of the spillway would be retained. However, the alterations proposed would result in the loss of most of the distinguishing 'architectural' features of the spillway, which are to be found in the cascades section. The original, intentional connection of the cascades section with the geometric form of the embankment, the scour portal and the pedestrian steps within the embankment would also be lost and, whilst some of the piers along the spillway channel would be retained, they would be altered and would lose their 'purpose' in marking changes in the gradient of the spillway. Accordingly, having regard to the advice at paragraphs 132 and 133 of the Framework and in the Planning Practice Guidance, I am in no doubt that the harm that would be caused to the special interest and significance of the spillway could only be described as substantial. Indeed, the scale of harm in this regard was a matter of common ground. In relation to the other assets, the harm would, by and large, be to their setting and would be less than substantial.

Character and Appearance

28. The spillway is set in a valley, with a steep escarpment to the east, a terraced area to the west, and rising hillside/moorland beyond. At the bottom of the valley, the spillway joins the Wessenden Brook which flows under Bank Bottom Bridge, beyond which are Bank Bottom Mill and the mainly 19th Century mill town of Marsden. Whilst the dam and the spillway are located in Kirklees, the reservoir itself is located within the Peak District National Park, at the southernmost limit of the Pennines, the boundary running along the crest of the dam/embankment.

29. From the National Park, the spillway would continue to be screened by the embankment itself, although there would be distant views of it from the higher ground overlooking the Wessenden Valley. The valley sides and high moors, together with the Mill buildings and existing woodland would also limit other views of the completed spillway from the wider landscape. However, it would be seen in closer range views from a localised area, which includes houses in Netherley, public rights of way (including the Kirklees Way and the Standedge Trail) and other tracks and trails that criss-cross the surrounding area (with the upland area around Marsden and the reservoir comprises open access land) a small number of houses north of Marsden, and a few locations within the northern part of the Marsden and Tunnel End Conservation Areas.

30. The anticipated 15 month construction period would clearly have an adverse impact on the character and appearance of the surrounding area. However, the impact in this regard would be temporary. In addition, the proposed raising of the clay core would not result in any lasting visual impact: the overall height of the embankment would remain the same, the wave wall would be reinstated and the embankment re-grassed.

31. Post-completion, the changes to the cascades section would diminish the architectural interest of the spillway. The spillway would, however, retain its sweeping curve down the face of the embankment, in its current location, on its existing footprint (with the exception that it would be lengthened slightly to accommodate the revised gradient in the lower section). It would occupy essentially the same space in the landscape as it does now and would continue to fulfil its intended function at times when the reservoir overtops.

32. The internal faces to the raised and new spillway walls, and raised piers, would be of natural stone, reflecting the local vernacular. Whilst the new masonry would appear different initially – it would be lighter in colour with a sharper profile – it would weather over time, as has the existing stonework. I recognise that the proposed concrete base would not reflect local building materials, but it is the use of masonry blocks that has caused the safety problems that need addressing here - given the results of the tests on the model, and the recent experiences with masonry spillways at Boltby and Ulley Reservoirs, there is every prospect that those problems would recur at Butterley if the base were to be retained/reconstructed in stone. The keystones that separate each of the steps within the upper section are to be retained and the stepped profile and new keystones in the lower section would reflect the existing profile of the upper section. Some, but not all, of the existing stone piers would be retained, although the proportions would change with the proposed increase in height and some architectural detailing would be lost with the making flush of the piers with the internal face of the spillway. That said, the raising would be carried out in reclaimed/ matching stone and the existing cappings would be re-used where possible. The replacement of the originally proposed timber safety fencing with estate railings (as agreed at the Inquiry) would also help mitigate the visual impact of the alterations.

33. In close range views (from up to 500 metres away) the changes proposed would be readily apparent and would lessen the contribution made by the spillway to the landscape character and appearance and to the experience of those walking the adjacent Kirklees Way. However, in longer range views, even were the changes and simplification of detailing discernable, that impact would diminish due to the surrounding topography and vegetation cover.

34. The significance of Marsden Conservation Area is based largely on its industrial heritage, as a consequence of the confluence of the Wessenden Brook and the River Colne and its location between major transport routes. The various mill buildings, mill workers' housing and the Mechanics Hall all provide a compact and highly legible legacy of the local textile industry. Complementing that is the smaller Tunnel End Conservation Area, located further to the northeast, on the side of Huck Hill, its significance deriving from industrial archaeological features associated with the canal and railway, including the portals of the Standedge tunnels.

35. The Framework defines the setting of heritage assets as the surroundings in which they are experienced. The setting of the Conservation Areas here is

dominated by open countryside and moorland and, from those vantage points where it can be seen, the spillway is already a part of that setting. That said, I am not persuaded that the spillway necessarily contributes to an understanding or appreciation of the significance of the Conservation Areas and, given the distances involved, the alterations proposed would not impinge to any material degree upon views into or out of the Conservation Areas.

36. All in all, given the scale of the spillway and the scale of its surroundings, I consider that the overall magnitude of change would be low and that the effect can, at worst, be categorised as minor adverse. There would be some limited harm in this regard to the established character and appearance of the surrounding area and to the landscape and scenic beauty of the adjacent Peak District National Park. There would be conflict, in this regard, with national policy as set out in the Framework and the Planning Policy Guidance.

Public Benefit

37. The purpose of the Reservoirs Act 1975 (as amended) is to prevent the escape of water from reservoirs such as Butterley in order to avert the potential danger to persons and property from such an escape. Based on the technical evidence before the Inquiry, it was common ground that some work needs to be undertaken in order for the spillway to meet the requirements of the 1975 Act in the interest of public safety. In a letter dated 8 January 2010, Dr Hughes recommended remedial works to the spillway. Those recommendations form the basis of the scheme now before the Inquiry. However, in seeking to protect the special architectural and historic interest of the listed spillway, objectors argued that the scheme proposed did not meet the test of *necessity* embedded in Framework paragraph 133, on the basis that there are other feasible options that would be safe and which would preserve more of the heritage interest of the spillway.

38. For the appellant, my attention was drawn to recent case law.[6] Under section 10 of the Reservoirs Act 1975 (replicating the provisions of the 1930 Act) Parliament expressly conferred responsibility upon Panel Engineers, such as Dr Hughes, to decide what safety measures are required for any particular dam, exercising their professional judgment and expertise. The judge confirmed, in this regard, that it should be assumed that the Panel Engineer would, quite properly, apply the safety standards generally recognised by their profession. In relation to Butterley, as in the case cited, those standards are set out in *Floods and Reservoir Safety* (Third edition 1986) produced by the Institute of Civil Engineers (ICE Guidance).

39. Table 1 of the ICE Guidance sets the design flood for a Category A dam (Butterley is a Category A dam) as the Probable Maximum Flood (PMF) such that the risk of failure due to flood is virtually eliminated. The PMF does not have a return period but is the flood resulting from the probable maximum precipitation and, where appropriate snow melt, coupled with the worst flood producing catchment conditions that can be expected in extreme meteorological conditions. Whilst the probability of such a flood may be very small, when people's lives are at risk, the standard of protection is required to be the highest available, namely designing to withstand the PMF so as to virtually eliminate the risk of failure.

[6] R (on the application of The Heath & Hampstead Society) v The Mayor and Commonality and Citizens of the City of [2014] EWHC 3868 (Admin)

40. One of the grounds on which the challenge was brought in the case cited related to the interpretation of the meaning of the words 'measures required in the interests of safety' in section 10(3)(c) of the Reservoirs Act 1975. It was argued this was not concerned with absolute or near safety, but with a level of safety that was reasonable in all the circumstances and which required that historical, social and ecological considerations be taken in to account.

41. Whilst the judge recognised that safety is a relative concept, she did not agree that it should be impliedly qualified to mean so far as, or so low as, is reasonably practicable. She also confirmed that neither the Reservoirs Act 1975, nor the ICE Guidance, provides for the Engineer to balance considerations of safety against competing factors such as for example, preservation of the landscape, or protection of the environment or heritage assets, noting that it would have been evident to Government and Parliament when the 1975 Act was passed, that reservoirs and dams are situated in a wide variety of locations, including areas of outstanding beauty and in historic settings close to heritage assets. She concluded that it is significant that the only legislative consideration so far as the 1975 Act is concerned, is public safety. To that end, Parliament conferred responsibility on Panel Engineers to make enforceable recommendations as to any measures required in the interests of safety. Page 8 of the ICE Guidance makes it clear that it is only where no community is at risk that other factors, such as environmental or heritage factors, may be taken into account. That is not the case at Butterley.

42. As set out in the Options Appraisal, and as confirmed in the evidence and cross-examination of Dr Hughes, the majority of the options assessed on a formal basis in relation to Butterley would, among other things, involve cutting through and breaching the clay core and/or the cut-off walls, introducing an increased short and long term risk of a potential flow path for the migration of water - if a leakage path is introduced around any new spillway, or any other overflow arrangement, substantial damage to the structure may ensue, posing a risk of catastrophic failure of the embankment. It is particularly difficult to measure the success of techniques such as this, other than by the detection of leakage once the reservoir has been refilled. I also understand that leaks could develop quickly, with few warning signs. Moreover, the risks at Butterley are likely to be greater than might otherwise be the case in this regard, because of known problems with the geology in this part of the valley, as encountered when the reservoir was first constructed.

43. Of the options that would not involve breaching the clay core, one involved decommissioning the reservoir. However, that would remove the flood alleviation properties of the reservoir and would have a major impact on the strategic water supply network for the Huddersfield area such that alternative provision would need to be made. The others would not meet the reservoir safety requirements.

44. Clearly, there are alternative development options that would deliver a more acceptable solution were preservation of the heritage asset the only consideration. However, the alterations proposed are required to address concerns of public safety by *virtually eliminating* the risk of failure. Whilst it might be that the required safety standards could, in principle, be capable of being met in more than one way, no substantiated evidence was before me to clearly demonstrate that any of the other feasible options in the Options

Appraisal, or some other scheme[7] would be *as* safe, once operational, as the scheme now before me.

Other Matters

45. SBS and others raised concerns in relation to the effect of the proposals on tourism and the local economy. Clearly, during the construction period, there would be some disruption in this regard, but the use of conditions could mitigate much of that impact. In any event, that impact would be for a limited period (estimated as 15 months by the appellant). Otherwise, I understand that, in the main, visitors come to Marsden to see the village in the picturesque setting of the Colne Valley, the C19 industrial heritage, including Standedge Tunnel, mill buildings, including Bottom Bank Mill, and the Wessenden chain of reservoirs including Butterley.

46. The moorland and valleys of the landscape surrounding Marsden are clearly popular with walkers and brown heritage signs have been erected directing attention to the spillway. However, as pointed out by the appellant, whilst Butterley Reservoir is mentioned as one of a number of interesting features on the routes, tourist information literature[8] does not single out the spillway as an attraction in its own right. Whilst the changes proposed would reduce the visual and historic/architectural interest of the spillway for visitors, including those using the footpaths in the immediate vicinity, it would still exist in the landscape as a large piece of engineering continuing to perform its original function. Furthermore, at times when the reservoir was over-topping, it would still create a glittering line down the dam face, albeit that the effect would be uniform along its length, rather than displaying the visual and aural variety created by the existing cascade section. All in all, in the absence of any objective or substantiated evidence to the contrary, I am not persuaded that the alterations proposed would result in any material adverse impact on tourism or the local economy.

Conclusion

47. The Court of Appeal has found that the need to have special regard to the desirability of preservation of listed buildings and their settings, as set out in Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, is a factor that is not only of considerable importance, but also attracts considerable weight in any balancing exercise.[9] Paragraph 132 of the Framework also sets out that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to note that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting.

48. Listed buildings represent a finite resource and, once lost, cannot be replaced. Paragraph 133 of the Framework makes it clear therefore, that where a

[7] SBS suggested a scheme to the Inquiry whereby all of the flood water would be allowed into the top section of the spillway, with the channel then split with an open channel to the west side of the spillway. They also argued that a more creative solution could be achieved through a design competition, or the commissioning of a multi-disciplinary team with a more directed brief
[8] Such as the 'Marsden Walkers are Welcome' website, and the' Long Walks about Marsden Moor' leaflet.
[9] Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and Others [2014] EWCA Civ 137

proposal would lead to substantial harm to the significance of a designated heritage asset, as is the case here, consent should be refused unless it can be demonstrated that the harm or loss 'is necessary to achieve substantial public benefits that outweigh that harm or loss' (or where other specified criteria apply).

49. On the basis of the evidence before me, the scheme proposed virtually eliminates the risk of failure of the dam whilst retaining the flood alleviation and water supply function of the reservoir. Moreover, the original function of the spillway would be retained, as would some of its original detailing. None of the other options have been demonstrated as being *as* safe and would not, therefore, virtually eliminate the risk of failure. All in all therefore, having regard to the provisions of the Reservoirs Act 1975, and the duty it imposes, I consider on balance, that the appeals should succeed.

50. There is strong local feeling about this proposal, as reflected by the volume of objections received at application stage and the eloquent opposition demonstrated at the Inquiry itself by SBS and other interested persons and I fully appreciate that this decision will be disappointing to them. I am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents and interest groups, very important though they are, must be balanced against other material planning considerations. In coming to my conclusion, I have taken full and careful account of all the representations that have been made, including the 185 plus individual letters submitted in response to the original applications which have the support of the local Member of Parliament. I have balanced that against the provisions of the development plan and the National Planning Policy Framework, as well as the relevant case law and the Reservoirs Act 1975. However, for the reasons set out above, the evidence in this case leads me to conclude, on balance, that the appeals should be allowed.

Conditions

51. Possible conditions in the event that the appeals were to succeed, were discussed in detail at the Inquiry in the light of the related advice in the Framework and the Planning Practice Guidance. It was agreed that a condition requiring the retention of safe public access during construction works along the existing public rights of way was unnecessary, since such matters are covered by other legislation.

52. There was reference, during the Inquiry to underground springs beneath the spillway. Whilst that is clearly an undesirable situation, it is something that would have to be addressed in any event during construction. Those works would be below ground and would not impact on the above ground appearance of the scheme. Accordingly, a separate condition in relation to drainage is not necessary in this instance.

Appeals A and B

53. In addition to the standard commencement condition, conditions in relation to the following are necessary, in order to safeguard the special architectural and historic interest of the listed building and the character and appearance of the area: details of new stone to be used, pointing details, and details of features to be re-built, re-located or re-used; details of the junction of the raised walling with the existing walling to be retained; details of how the internal faces of the

piers are to be made flush with the spillway walls; the colour of the concrete base; no cleaning or staining of the existing masonry to be retained; large scale details of the junction of the raised walling with the existing walling to be retained; and details of the safety fencing/railings.

Appeal A only

54. Otherwise than as set out in this decision and conditions, it is necessary that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. It is not appropriate, though, to include a list of the various reports submitted in support of the applications, given the purpose of the condition.

55. Given the sensitivity of the site and its setting, and its proximity to the village and residents of Marsden, a Construction Method Statement is required to minimise the impact of the construction process so far as possible. For the same reason, it is necessary to ensure that construction related plant, machinery, compounds etc are removed and the land reinstated at the end of the construction period.

56. Given the existing level of human activity on and around the dam, it is unlikely that any Schedule 1 birds would nest on the appeal site. However, little ringed plover may have nested on the recently exposed shores of the reservoir itself and they could be disturbed were works to commence during the nesting season, in particular works to the dam itself. The little ringed plover is a Schedule 1 species and a condition for their protection during construction work is therefore necessary.

Appeal B only

57. In addition to the standard time limit on the commencement of works, and given that works would result in substantial harm to the listed spillway, it is necessary to secure a permanent historical record of the existing spillway and the provision of an on-site interpretation board.

Jennifer A Vyse
INSPECTOR

APPENDIX A – Appearances

APPENDIX B – Documents

APPENDIX C – Schedule of Condition in relation the planning application

APPENDIX D – Schedule of conditions in relation to the listed building consent

APPENDIX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Evans, of Counsel	Instructed by Ms D Wilkes, Senior Legal Officer with Kirklees Metropolitan Borough Council
He called	
Mr V Bamford	Engineer with URS (now an AECOM company)
Mr Harris BA, MPLI, ACIFA	Associate at URS (Head of Historic Built Environment)
Mr Newlove LLB, DipTP, MRTPI	Associate Director with URS

Although he did not give evidence, Mr N Hunston (Kirklees Council) assisted the Inquiry during the discussion on possible conditions in the event that the appeals were to succeed.

FOR THE APPELLANT:

Mr D Manley, of Queen's Counsel	Instructed by Mr R Glover of Squire Patton Boggs (UK) LLP
He called	
Mr Muncaster BEng(Hons)	Yorkshire Water Services Limited
Dr A Hughes BSc(Hons), PhD, DMS, CEng, FICE, FCIWEM, MIM	Atkins Limited
Ms A Upson MA, DipArch, MCIfA	Wessex Archaeology
Mr J Purseglove BA, MSc, ALI	Mott MacDonald
Ms E Thomas MPhil, MRTPI, AADip, RIBA, MBA	Eileen Thomas and Associates

FOR SAVE BUTTERLEY SPILLWAY (Rule 6(6) party):

Ms Diane Ellis BA(Hons), MA, MRTPI, AIEMA	Local resident
Mr Tom Lonsdale DipLA, MLI	Local resident

INTERESTED PERSONS:

Mr J Garside	Local resident
Mr C Anderson	Local resident
Mr D Preston	Local resident
Mr P Goodall	Local resident

APPENDIX B: DOCUMENTS

Core Documents

CD1	Application Documents
CD1.1	Application Form, 3 June 2013
CD1.2	Spillway Options Appraisal dated March 2013 (Rev H) and October 2013
CD1.3	Statement on Butterley Reservoir by Inspecting/Qualified Civil Engineer (Dr A K Hughes), 12 March 2013
CD1.4	Summary of Community Engagement, 16 April 2013
CD1.5	Butterley IRE Spillway Improvements, Preliminary Ecological Appraisal, July 2013
CD1.6	Additional and amended information regarding public footpaths, bridleways and public rights of way, 22 July 2013
CD1.7	Design and Access Statement (amended) October 2013 (Rev F)
CD1.8	Drawings: K502-06/108 (Rev P6), K502-06/109 (Rev P4), K502-06/231 (Rev P1), K502-06/232 (Rev P1) and K502-06/233 (Rev P1)
CD1.9	Environmental Statement (October 2014)
CD1.10	Committee Report and addendum 9 January 2014 Planning Application)
CD1.11	Committee Report and addendum 9 January 2014 (Listed Building Consent)
CD1.12	Decision notices dated 24 January 2014
CD1.13	Consultee Responses
CD1.14	Third Party Representations
CD1.15	Report to Committee of 4 December 2014 and Committee Resolution
CD1.16	Mott MacDonald Butterley Reservoir Heritage Statement – October 2013
CD2	Statements of Common Ground
CD2.1	Statement of Common Ground between Yorkshire Water and Kirklees Council, 6 November 2014
CD2.2	Statement of Common Ground between Yorkshire Water and Save Butterley Spillway Group, 13 October 2014
CD3	Planning Policy Documents
CD3.1	Kirklees UPD (March 1999)
CD3.2	Peak District National Park Landscape Strategy Action Plan (2009)
CD3.3	Peak District National Park Local Development Framework Core Strategy Development Plan Document (October 2011)
CD3.4	Calder Valley Strategic Flood Risk Assessment – Calderdale and Kirklees Metropolitan Borough Councils and the City of Wakefield Metropolitan District Council, November 2008
CD3.5	National Planning Policy Framework, March 2012
CD3.6	Planning Practice Guidance 2014 (on-line only, as per notes of PIM)
CD4.	Legislation
CD4.1	Section 38 Planning and Compulsory Purchase Act 2004
CD4.2	Planning (Listed Buildings and Conservation Areas) Act 1990 (sections 66 and 72)

CD4.3	Water Industry Act 1991 (sections 18 & 37)
CD4.4	Reservoirs Act 1975
CD4.5	Flood and Water Management Act 2010 (section 33 and Schedule 4)
CD4.6	The Flood and Water Management Act 2010 (Commencement No.2, Transitional and Savings Provisions) (England) Order 2013 (SI 2013/1590)
CD4.7	The Reservoirs Act 1975 (Capacity, Registration, Prescribed Forms, etc.) (England) Regulations 2013 (SI 2013/1677)
CD4.8	The Reservoirs Act 1975 (Exemptions, Appeals and Inspections) (England) Regulations 2013 (SI 2013/1896)
CD5.	Engineering Documents
CD5.1	Floods and Reservoir Safety: An Engineering Guide. 3rd Edition (1996) (extracts)
CD5.2	Guidance for the Design and Maintenance of Stepped Masonry Spillways, Defra/Environment Agency (October 2010) (Summary document)
CD5.3	R (The Heath & Hampstead Society) v The Mayor and Commonalty and Citizens of the City of London (acting by The Hampstead Heath, Highgate Wood and Queen's Park Management Committee) (and the Project's Sub Committee)) and The Environment Agency [2014] EWHC 3868 (Admin)
CD6.	Heritage Documents
CD6.1	Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment - English Heritage, 2008
CD6.2	The Setting of Heritage Assets - English Heritage, 2011
CD6.3	Historic Environment Good Practice Advice in Planning – Note 3: The Setting of Heritage Assets - English Heritage, Consultation draft, July 2014
CD6.4	Design Manual for Roads and Bridges, Volume 11, Section 3, Part 2
CD6.5	Marsden Conservation Area, Character Appraisal - Kirklees Council, 2007
CD6.6	DCMS, March 2010, Principles of Selection for Listed Buildings
CD6.7	English Heritage, April 2011, Listing Selection Guide – Industrial Structures
CD6.8	English Heritage, April 2011, Listing Selection Guide – Utilities and Communications Structures
CD6.9	English Heritage PPS5 Planning for the Historic Environment, Planning Practice Guide 2010
CD7	Landscape and Visual Documents
CD7.1	Guidelines for Landscape and Visual Impact Assessment, Third Edition, Landscape Institute and IEMA, 2013
CD8	Planning Documents
CD8.1	Secretary of State for Communities and Local Government & Others v Redhill Aerodrome Limited [2014] EWCA Civ 1386
CD8.2	Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137

CD8.3	R (The Forge Field Society) v Sevenoaks District Council and others [2014] EWHC 1895 (Admin)
CD8.4	R (on the application of Mrs Gillian Hughes) v South Lakeland District Council and others [2014] EWHC 3979 (Admin)
CD9	Miscellaneous Documents
CD9.1	Photographs of Ulley Reservoir (11 photographs)
CD9.2	Inspector's Notes of the Pre-Inquiry Meeting held on 1 October 2014

Documents tabled during the inquiry

DOC 1	Committee report of 4 December 2014 and associated Minutes
DOC 2	Suggested conditions
DOC 3	Appearances for the appellant
DOC 4	Appearances for the Council
DOC 5	Additional plans showing the location of various component elements of dam construction
DOC 6	Written copy of the opening notes for the appellant
DOC 7	Written copy of the opening statement for SBS
DOC 8	Written copy of the opening remarks for the Council
DOC 9	Speaking notes of Mr Garside and photographs
DOC 10	Saved Green Belt policies of the Kirklees Unitary Development Plan
DOC 11	Amended plans (K502-06/234 P1 and K502-06/236 P1)
DOC 12	Speaking notes of Mr C Anderson
DOC 13	Correspondence to the National Park Authority dated 20 October 2014, asking for comments on the Environmental Statement
DOC 14	Handout of FAQ's issued by Yorkshire Water at a consultation meeting in May 2012
DOC 15	SBS suggested conditions
DOC 16	Plan showing the location of WWI tree planting project adjacent to the Reservoir
DOC 17	Closing submissions for SBS
DOC 18	Closing submissions for Yorkshire Water

APPENDIX C:

Schedule of Conditions attached to APP/Z4718/A/14/2222372 Butterley Reservoir, off Wessenden Road, Marsden, West Yorkshire

1) The development hereby permitted shall begin not later than three years from the date of this decision.
2) Other than as required by conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: K502-06/109 P4 (as amended in part by K502-06/234 P1); K502-06/232 P1 (as amended in part by K502-06/234 P1); K502-06/234 P1; and K502-06/236 P1.
3) No development shall take place, including any works of site preparation, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The approved CMP shall be implemented and adhered to throughout the construction period. The CMP shall include, but is not restricted to the following matters:
    a) measures for the management of all construction and delivery traffic, including access and routing of vehicles;
    b) site management arrangements, including on-site storage of materials, plant and machinery; temporary offices and other facilities; contractors compounds; on-site parking provision for site operatives and visitors, construction vehicles and vehicle turning; and provision for the loading/unloading of plant and materials within the site;
    c) a detailed construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery;
    d) hours of construction operations, including the hours during which construction activities can take place on the site, and the timings for vehicle movements associated with the delivery of construction materials, contractors' vehicles, and the removal of construction waste;
    e) the siting, design and location of any security fencing/hoardings to be erected during construction works;
    f) the location and operation of external lighting during construction works;
    g) dust/dirt prevention and suppression measures (including the provision of wheel washing facilities for construction vehicles leaving the site);
    h) noise and vibration prevention/suppression measures;
    i) and a communication plan for keeping local residents informed of developments and of significant deliveries.
4) No development, including any works of demolition/dismantling, shall take place until a scheme for the removal of all plant and machinery, temporary offices and other facilities associated with the construction process, including contractors' compounds, on-site parking provision etc and reinstatement of the land has been submitted to and approved in writing by the local planning authority. The details to be submitted shall include a timetable for implementation. Development shall be carried out in accordance with the approved details and timetable.

5) No development, including any works of demolition/dismantling, shall take place until details of the stone (including relevant finishes) to be used for the new walls and for the raising of the spillway walls and piers that would be retained/relocated, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

6) No development, including any works of demolition/dismantling, shall take place until a sample panel (of at least 1 square metre in size) of the new stone approved pursuant to condition 5, has been constructed on site. The panel shall establish the details of the bonding and coursing of the stone and the colour and type of jointing materials and pointing detail. The local planning authority shall be informed on completion of the panel which shall then be inspected and, if acceptable, approved in writing by the local planning authority. The new spillway walls and the raised spillway walling and piers shall be carried out in the approved material and shall match the detailing of the approved sample panel in all respects. The approved panel shall be retained on site for reference purposes, until its removal is agreed in writing by the local planning authority.

7) Notwithstanding the details shown on K502-06/232 P1 (as amended in part by K502-06/234 P1) no development, including any works of demolition/ dismantling, shall take place until a scheme (including a timetable for implementation) that provides for the existing stepped copings on the walling within the lower section of the spillway to be re-set in a stepped arrangement on top of the raised spillway walling in this section, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and timetable.

8) No development, including any works of demolition/ dismantling, shall take place until full details of the relocated/raised terminal piers and curved walls at the end of the spillway have been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include a method statement for the dismantling of the existing terminal piers and walls, bonding and coursing of the stone and the colour and type of jointing materials and pointing detail, as well as a timetable for implementation. Development shall be carried out in accordance with the approved scheme and timetable.

9) Notwithstanding the details shown on the approved plans, no safety fencing/railings along the spillway shall be erected other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

10) No development, including any works of demolition/dismantling, shall take place until a scheme detailing how the wave wall and any other stone walls that are required to be dismantled in association with the development hereby permitted (other than those directly associated with the spillway but including any such walls as may need dismantling to allow access for construction traffic) are to be dismantled and rebuilt, has been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include a method statement for the dismantling of the existing walls and re-use of the stone, bonding and coursing of the stone and the colour and type of jointing materials and pointing detail, as well as a timetable for implementation. Development shall be carried out in accordance with the approved scheme and timetable.

11) No development, including any works of demolition/dismantling, shall take place until a scheme detailing how the embankment steps shown as being

relocated (plan No K502-06/234 P1) are to be dismantled and rebuilt has been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include a method statement for the dismantling of the existing steps and re-use of the stone, bonding and coursing of the stone and the colour and type of jointing materials and pointing detail, as well as a timetable for implementation. Development shall be carried out in accordance with the approved scheme and timetable.

12) Prior to the commencement of development, including any works of demolition/dismantling, large scale details of the junction of the raised walling hereby permitted with the existing walling to be retained within the upper section of the spillway, are to be submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

13) Prior to the commencement of development, including any works of demolition/dismantling, details of how the faces of the piers to be retained, and the relocated terminal piers at the end of the spillway, are to be made flush with the spillway walls shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.

14) No development, including any works of demolition/dismantling, shall take place until details of the colour of the concrete to be used in the spillway base have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

15) No existing stonework is to be stained or cleaned and new masonry shall be left to weather naturally.

16) No development, including any works of demolition/dismantling, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted and approved in writing by the local planning authority, that nesting birds can be adequately protected. Development shall be carried out only in accordance with the approved details which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.

APPENDIX D:

Schedule of Conditions attached to APP/Z4718/E/14/2222367 Butterley Reservoir, off Wessenden Road, Marsden, West Yorkshire

1) The works hereby authorised shall begin not later than three years from the date of this decision.
2) No works, including any works of demolition/dismantling, shall take place until details of the stone (including relevant finishes) to be used for the new walls and the raising of the spillway walls and piers to be retained/ relocated, have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
3) No works, including any works of demolition/dismantling, shall take place until a sample panel (of at least 1 square metre in size) of the new stone approved pursuant to condition 2, has been constructed on site. The panel shall establish the details of the bonding and coursing of the stone and the colour and type of jointing materials and pointing detail. The local planning authority shall be informed on completion of the panel which shall then be inspected and, if acceptable, approved in writing by the local planning authority. The new walls and the raising of the spillway walls and piers to be retained/relocated shall be carried out in the approved material and shall match the detailing of the approved sample panel in all respects. The approved panel shall be retained on site for reference purposes, until its removal is agreed in writing by the local planning authority.
4) Notwithstanding the details shown on K502-06/232 P1 (as amended in part by K502-06/234 P1) no works, including any works of demolition/ dismantling, shall take place until a scheme (including a timetable for implementation) that provides for the existing stepped copings on the walling within the lower section of the spillway to be re-set in a stepped arrangement on top of the raised spillway walling in this section, has been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme and timetable.
5) No works, including any works of demolition/dismantling, shall take place until full details of the relocated/raised terminal piers and curved walls at the end of the spillway have been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include a method statement for the dismantling of the existing piers and walls, bonding and coursing of the stone and the colour and type of jointing materials and pointing detail, as well as a timetable for implementation. Works shall be carried out in accordance with the approved scheme and timetable.
6) Notwithstanding the details shown on the approved plans, no safety fencing/railings along the spillway shall be erected other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
7) No works, including any works of demolition/dismantling, shall take place until a scheme detailing how the wave wall and any other stone walls that are required to be dismantled in association with the alterations hereby permitted (other than those directly associated with the spillway but including any such walls as may need dismantling to allow access for construction traffic) are to be dismantled and rebuilt, has been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include a method

statement for the dismantling of the existing walls and re-use of the stone, bonding and coursing of the stone and the colour and type of jointing materials and pointing detail, as well as a timetable for implementation. Works shall be carried out in accordance with the approved scheme and timetable.

8) No works, including any works of demolition/dismantling, shall take place until a scheme detailing how the embankment steps shown as being relocated (plan No K502-06/234 P1) are to be dismantled and rebuilt has been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include a method statement for the dismantling of the existing steps and re-use of the stone, bonding and coursing of the stone and the colour and type of jointing materials and pointing detail, as well as a timetable for implementation. Works shall be carried out in accordance with the approved scheme and timetable.

9) Prior to the commencement of works, including any works of demolition/dismantling, large scale details of the junction of the raised walling hereby permitted with the existing walling to be retained within the upper section of the spillway, are to be submitted to and agreed in writing by the local planning authority. Works shall be carried out in accordance with the approved details.

10) Prior to the commencement of works, including any works of demolition/ dismantling, details of how the faces to the pillars to be retained, and the relocated terminal piers at the end of the spillway, are to be made flush with the spillway walls shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with approved details.

11) No works, including any works of demolition/dismantling, shall take place until details of the colour of the concrete to be used in the spillway base have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.

12) No existing stonework is to be stained or cleaned and new masonry shall be left to weather naturally.

13) No works, including any works of demolition/dismantling, shall take place until a permanent historical record of the existing spillway has been undertaken in accordance with a written scheme of investigation (including a timetable for the submission of a final report) that shall previously have been submitted to and approved in writing by the local planning authority. The record shall include, but is not confined to, an archival study, a photographic survey of the spillway in its setting, a digital 3D model, and a final report. The final record shall be submitted to the local planning authority in accordance with the timetable set out in the written scheme of investigation. Once agreed in writing by the local planning authority, the report and archive shall be deposited in a publically accessible archive as shall be nominated by the local planning authority.

14) No works, including any works of demolition/dismantling, shall take place until details of an on-site interpretation board have been submitted to and agreed in writing by the local planning authority. The details to be submitted shall include the proposed location for the board, the information to be provided on the board (based on the history of the reservoir and the spillway) and a timetable for its erection. Works shall be carried out in accordance with the approved details and timetable. Once provided, it shall be retained in perpetuity thereafter.

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