

Planning Reference No:	09/3140N
Application Address:	Land South of Wybunbury Mere, Wrinehill Road, Hough, Crewe
Proposal:	Excavation of a Fishing Pool
Applicant:	Mr A. Worthington
Application Type:	Full Planning
Grid Reference:	370353 349577
Ward:	Doddington
Earliest Determination Date:	23 rd December 2009
Expiry Dated:	11 th January 2010
Date of Officer's Site Visit:	1 st December 2009
Date Report Prepared:	15 th December 2009
Constraints:	Wybunbury Conservation Area

SUMMARY RECOMMENDATION

Approve with Conditions

MAIN ISSUES

- Impact of the development on:-
- The living conditions of neighbouring properties
- Design and Impact upon the Conservation Area
- The impact upon the Wybunbury Moss and Cobbs Moss & Wybunbury Mere
- The impact upon protected species
- Highway implications

1. REASON FOR REFERRAL

This application was to be dealt with under the Council's delegation scheme. However Cllr Walker has requested it is referred to Committee for the following reason;

Members may wish to consider the effect of this development on the nearby Wybunbury Moss and adjacent land and the impact on highway safety and Wrinehill Road due to increased vehicle movements.

2. DESCRIPTION OF SITE AND CONTEXT

The application site is located on the northern side of Wrinehill Road within the Open Countryside and Wybunbury Conservation Area. The application site is located within Flood Zone 3; to the north of the site is Cobbs Moss and Wybunbury Mere which is a Site of Biological Importance, 500 metres to the north-east is Wybunbury Moss which is a Ramsar Site, Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA). The application is part retrospective and the fishing lake has now been excavated although the earth which was dug from the site has not been removed, a vehicular access is located onto Wrinehill Road.

3. DETAILS OF PROPOSAL

This is a full planning application for the excavation of a fishing lake of 2000sq.m which is to be used for private use only.

4. RELEVANT HISTORY

The site has no planning history

5. POLICIES

Regional Spatial Strategy

DP1 – Spatial Principles

DP2 – Promote Sustainable Communities

DP4 – Make the Best Use of Existing Resources and Infrastructure

DP7 – Promote Environmental Quality

EM1 (A) – Landscape

EM1 (C) – Natural Environment

EM1 (C) – Historic Environment

Local Plan Policy

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

BE.7 – Conservation Areas

BE.16 – Development and Archaeology

NE.5 – Nature Conservation and Habitats

NE.6 – Sites of International Importance for Nature Conservation

NE.8 – Sites of Local Importance for Nature Conservation

NE.20 – Flood Prevention

RT.6 – Recreational Uses in the Open Countryside

Other Material Considerations

PPS1 – Delivering Sustainable Development

PPS7 – Sustainable Development in Rural Areas

PPS9 – Biodiversity and Geological Conservation

PPG15 – Planning and the Historic Environment

PPS25 – Development and Flood Risk

6. CONSULTATIONS (External to Planning)

Highways: No objection provided the fishing pool is in private use but concerned over the removal of soil from the site

Ecology: The protected species survey undertaken in support of the application appears to have been undertaken to an acceptable standard and does not identify any significant ecological issues. Furthermore Natural England do not anticipate there being any significant impacts upon the Wybunbury Moss Ramsar, SSSI and SPA site, similarly there does not appear to be any likely potential impact upon the adjacent Sites of Biological Importance providing that the pond is 4m from the boundary with the SBI and there is no

inflow or outflow into the SBI. Conditions regarding no inflow/outflow into the SBI, nesting bird mitigation and landscaping are required.

Natural England: The proposal lies close to Wybunbury Moss but it is our opinion that the proposed development will not materially or significantly affect it. The Local Planning Authority should consider the impact of the proposed development on the Site of Biological Importance and protected species. Provision of artificial nest sites at selected points within the development should be made to provide alternative nesting sites and to compensate for the loss of any nesting sites.

Archaeology: It should be noted that two Scheduled Monuments (SM 13439 and SM 13438) lie in close proximity to the proposed works. Both sites consist of earthworks and represent the remains of medieval moated sites which are under statutory protection. The application also makes clear that they are under separate ownership from the area of the proposed fishpond. There should, therefore, be no danger of any intrusion into the protected areas. It might be helpful, however, to inform the applicant of the sites' status in order to ensure that requests are not made to park vehicles or store temporarily materials or spoil on either site.

Environment Agency: Object to the proposed development as submitted because no assessment of the risks to the Site of Biological Importance (SBI) Cobbs Moss and Wybunbury Mere (Grade A) has been provided and we recommend that the planning application should be refused on this basis. The SBI is adjacent to the site location. The pond itself is only approximately 1.5 metres away from the SBI. In some areas the work has already encroachment into the SBI. The SBI is a wet woodland and so the pond and any work on the site could affect the hydrology of the area affecting the SBI.

7. VIEWS OF THE TOWN COUNCIL

Hough & Chorlton Parish Council: No comments received at the time of writing this report

Wybunbury Parish Council: No comments received at the time of writing this report

8. OTHER REPRESENTATIONS

No representations received at the time of writing this report

9. APPLICANT'S SUPPORTING INFORMATION

Planning Statement and Design and Access Statement (*Produced by Hinson Parry*)

- Prior to the applicant purchasing the land in 2007 it was managed as intensive grassland under agricultural production. Since 2007 the land has been managed for conservation and environmental benefit
- The applicants aim by excavating the fishing pool and producing the surrounding wetland meadow is to encourage diversity in the local habitat
- Once the pool has matured and naturalized it will be stocked with native fish species. The pool is to then be used for private fishing by family members and maintained as a natural and bio-diverse habitat
- The fishing pool would cover an area of approximately 70m east to west by 32m north to south and it to be 2m deep at its deepest point. A small island will be located to the centre of the pool

- The broken edge of the pool, its island and shallow gradient help to make the pool appear as natural as possible
- The fishing pool will provide environmental and conservation benefits

Drainage Assessment (Produced by Clear Environmental Consultants)

- Excavation at the pond at this site will have minimal impact on the local hydrology as the pond has filled from groundwater sources and does not have any inflow/outflow connectivity to the local watercourses
- Whilst the site is located partially within Flood Zone 3, the pond does not lead to any loss of flood storage as the pond sits below the natural ground level. There is no increase in drained area at the site, therefore there is no increase in flood risk at the site or surrounding areas
- It is recommended that a minimum 4-5m wide margin be retained between the pond and the adjacent watercourses to allow access for maintenance works to these watercourses
- All spoil that results from the excavation of the pond should be removed from the site to ensure that there is no increase in ground levels that could lead to the loss of flood storage or could impede flood flow routes
- The perimeter of the pond should be planted with native wetland species with both taller and marginal plants and lower grasses and herbs that will provide habitat enhancement and water treatment benefits

Ecological Scoping Survey (Produced by Clear Ecology and dated November 2009)

- The site was formerly agricultural land and with the construction of the pond and with sympathetic management the ecological potential of the site has been improved. It is not considered that any protected species have been impacted upon as a result of pond construction
- At the time of the survey there was no evidence to support the presence of badgers, Great Crested Newts, Otters, Kingfishers, reptiles, Water Vole or White Clawed Crayfish. It was considered that bats may use the pond as potential foraging for invertebrates and that bird species may utilise the area of woodland beyond the northern and eastern boundaries of the site
- Disturbance to the trees should be avoided. Woodcrete construction bat roosting boxes could be erected, the planting of native species could be incorporated within the landscaping designs to improve foraging habitats
- It is recommended that any further clearance works that may impact upon breeding birds should be undertaken outside the main bird breeding season. Should nesting birds be found once works are underway an appropriate buffer should be enforced around the nest until the birds have fledged.

Letter in response to the objection raised from the Environment Agency

- At this stage the excavation of the fishing pool is not complete and the pond is not representative of the plans submitted. The edge of the pool is to be at least 4m from the adjoining land and the northern bank of the pool is still to be finished
- The Drainage Assessment accompanying the application recommends that there should be a 4-5m wide margin be retained between the pond and the adjacent watercourse. It is the intention to maintain this distance
- The completed pool will have no inflow or outflow of surface water as it will be bunded and left to naturally establish with wetland flora when the excavation is complete and it will have minimal impact on the surrounding SBI
- Although the fishing pool is not likely to be stocked for several years and stocking levels will be very low. The pond is to be for private use only amongst the family of the applicant, there will be no feeding of fish, no fish pegs and the pond will be left to naturalise.

10. OFFICER APPRAISAL

Principle of Development

The site lies within the Open Countryside, Conservation Area and Flood Zone 3 and is in close proximity to a Site of Biological Importance, Wybunbury Moss National Ramsar Site, SSSI, and SPA and two Scheduled Monuments.

The principal of a fishing pool is considered to be an acceptable form of development within the open countryside and the development will need to meet the requirements of Policy RT.6 (Recreational Uses in the Open Countryside). Policy RT.6 allows recreational uses within the open countryside where they meet a number of criteria including;

- they do not harm the character and appearance of the countryside
- they do not harm sites of nature conservation, historic or archaeological importance
- there is safe vehicular access to the site
- the access roads are suitable for the likely traffic generation

Design and impact upon the Conservation Area

The fishing pool has a broken edge with an island and shallow sides which help to give the pool a natural appearance which would not be out of character in this area of Cheshire. The visual impact will be limited given that the pond is a flat feature and the proposal will not have a detrimental impact upon the character and appearance of the Wybunbury Conservation Area providing that the mounds of earth which have been excavated from the site are removed which is the intention of the applicant. A condition will be attached to ensure that the earth mounds are removed from the site.

Amenity

The nearest residential property is approximately 150 metres from the fishing pool. Given the nature of the use which does not raise any noise issues and the size of the pool it is considered that the proposal would not have a detrimental impact upon residential amenity.

Highways

The Highways Engineer has raised no objection to the proposed development due to the fact that the fishing lake would be used for private use only and would not be used as a commercial fishing lake.

The Highway Engineer has raised concerns over the removal of soil from the excavation of the lake and the highway implications this may cause. However this would be a one off event only lasting a few weeks at most, and as a result this issue would not warrant the refusal of this planning application.

Ecological issues

The main issue in the determination of this planning application is the impact of the proposal upon protected species and the nearby Wybunbury Moss and Cobbs Moss and Wybunbury Mere.

Wybunbury Moss lies 500 metres to the north-east of the site of the site. Wybunbury Moss is designated a Phase 1 Meres and Mosses Ramsar Site and a Special Area of Conservation. This designated site is part of The Meres and Mosses of the North West Midlands which form a nationally important series of open water and peat land sites. These have developed in the natural depressions in the glacial drift left by the ice sheets which covered the Cheshire-Shropshire plain some 15,000 years ago. The majority lie in Cheshire and North Shropshire with a small number of outlying sites in Staffordshire and Clwyd.

Wybunbury Moss is one of the finest examples in the country of a 'schwingmor' and supports an outstanding assemblage of invertebrates. Evidence suggests that the origin of the lake basin was a secondary process associated with the solution and subsidence of the underlying salt bearing strata. The central floating raft of sphagnum and diverse bog communities is surrounded by fen and mixed woodland.

As part of this application Natural England has been consulted as required by Regulation 48 (3) of The Conservation (Natural Habitats, & c.) Regulations 1994, Wildlife and Countryside Act as incorporated by the Countryside and Rights of Way Act 2000, and they have concluded that the proposed development will not materially or significantly affect Wybunbury Moss.

Cobbs Moss and Wybunbury Mere is a Site of Biological Importance (SBI) and lies directly to the north and east of the site. This site is composed of two distinct areas; Wybunbury Mere is very wet broadleaved semi-natural woodland of mainly willow and alder with fern, Cobbs Moss is wet semi-natural mixed woodland with Birch, bramble, nettle and fern. In terms of the impact upon this the Cheshire East Ecologist has raised concerns over the proposal and the Environment Agency has objected on grounds that the site is closer to the SBI than shown on the submitted plans and that there is an overflow from the fishing pool into the SBI. The applicant's agent has responded to the comments made by the Environment Agency and has stated that the fishing pool is not complete but once completed the bank of the pool will be 4m away from the SBI and there will be no inflow or outflow of surface water as it will be bunded and left to naturally establish with wetland flora. This response has been forwarded to the Environment Agency and their comments will be reported as part of the update report, whilst the Cheshire East Ecologist is satisfied that this will address the initial concerns subject the submission of an amended plan showing the pond in relation to the boundary with the SBI.

The protected species survey has indicated that bats may use the new pond for foraging and that birds may nest on the site. All wild birds, their nests eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended) during the nesting season. To ensure that there is no impact upon nesting birds conditions will be a condition will attached to ensure that any further works are carried out outside the bird breeding season and that a scheme for additional bird nesting and bat roosting is agreed and provided.

Archaeology

The site lies outside the Wybunbury Area of Archaeological Potential but within close proximity to two Scheduled Monuments. The Cheshire Archaeologist has been consulted and considers that there would be no danger of any intrusion into the protected areas given that these are not within the ownership of the applicant. However an informative will

be attached to inform the applicant of the sites' status in order to ensure that requests are not made to park vehicles or store temporarily materials or spoil on either site.

Flood Risk

The pond is located within a Flood Risk Area and given that the pond is not raised it is considered that the proposal would not raise any flood risk issues. Furthermore the Environment Agency has not objected to the application on Flood Risk grounds.

11. CONCLUSIONS

The proposed development is considered to be acceptable in principal and would not have a detrimental impact upon the Wybunbury Conservation Area, residential amenity, highway safety, flood risk, archaeology or Wybunbury Moss. However at the time of writing this report negotiations were continuing over the impact upon the Cobbs Moss and Wybunbury Mere SBI, it is not considered that this issue would result in the refusal of this application and the results of the ongoing discussions regarding this issue will be reported as part of the late report.

12. RECOMMENDATIONS

APPROVE subject to the following conditions

1 Standard

2 Landscaping to be submitted and approved

3 Landscaping to be implemented

4 Plans

5 A scheme of Bird and Bat boxes to be provided

6 Further works shall not commence within the bird breeding season without the submission of an up to date ecological survey

7 The soil mounds should be removed from the site within 1 month of the date of this permission

8 No overflow/discharge into the adjacent SBI

Location Plan: Cheshire East Council Licence No. 100049045

