

OPEN

Economy and Growth Committee

26 January 2024

Petition: Poynton Pool

Report of: Peter Skates, Acting Director of Place

Report Reference No: EG/22/23-24

Ward(s) Affected: Poynton East and Pott Shrigley
Poynton West and Adlington

Purpose of Report

- 1 The purpose of this report is to receive a petition and to note that the matter is the subject of a current live planning application.

Executive Summary

- 2 The Council has received a petition regarding the proposed work to be undertaken at Poynton Pool.
- 3 The petition requests that "*Cheshire East Council reviews the Poynton Reservoir Flood Study (2019) and if that identifies that works should be carried out to the dam at Poynton Pool:*
 1. *the most environmentally friendly identified solutions are employed, with the objective of causing minimal disruption to the landscape, the ecology and the public enjoyment of the Park.*
 2. *any cost/benefit analysis of the project includes both a Capital Asset Value for Amenity Trees (CAVAT) to account for the loss of amenity, and the DEFRA biodiversity offsetting metric to calculate a biodiversity net gain resulting from the project.*
 3. *Any subsequent mitigation planting is within the town boundaries."*
- 4 In accordance with the Council's Constitution, petitions signed by over 5000 petitioners may be submitted to Full Council or a Committee for consultation.

- 5 The report outlines that the subject of the petition is currently under consideration as a live planning application in which the Council is a participant, and it is an application that will be referred to the Strategic Planning Committee for a decision. Matters raised in the petition will be the subject of scrutiny from that planning committee.
- 6 The Economy and Growth Committee has previously considered a report on Poynton Pool at its meeting on 6 June 2023.

RECOMMENDATIONS

The Economy and Growth Committee is recommended to:

1. receive and note the petition.

Background

- 7 Poynton Pool is a large high-risk reservoir as defined by the Reservoirs Act 1975 (the Act). As a result, it is regulated and managed in accordance with the Act and the Council as the owner / operator has statutory responsibilities.
- 8 The Council must appoint qualified engineers from a DEFRA panel (all reservoirs panel) to supervise and inspect the reservoir. During its last inspection the Council was required to undertake a flood study and prepare a draw down plan. The flood study found that the reservoir did not meet modern standards.
- 9 Therefore, the Council is obligated to undertake works appropriate (either a full engineering solution or a risk-based solution) to address the issues, or permanently remove water, reducing its capacity to take it outside of the current legislation.
- 10 Should the Council not progress with the remedial work required, an inspection under s10 of the Act would be progressed, notice served, and the Council would be compelled to undertake the work.
- 11 Following initial concept development, a proposed solution went out for public consultation prior to the intention to submit a planning application. The Council received a very strong response from the public, which was not in favour of the proposal. The main concerns raised were whether the works are needed, the environmental and visual impact of loss of trees on the reservoir's dam and that other solutions should be considered.

- 12 In considering this feedback the Council was receptive to any alternative solutions put forward and these were also tested. Work was undertaken to refine and amend the Council's proposal prior to the submission to planning.
- 13 Economy & Growth Committee noted an update report on this matter on 6th June 2023.
- 14 Subsequently, discussions were held between the Council, (including its technical advisors / reservoir engineer), Poynton Town Council, and the community group, Friends of Poynton Pool, on 26th July 2023, and the meeting covered challenging technical details, data sources, and debate around alternative solutions.
- 15 The proposal documentation was further updated following these discussions and a full planning application was submitted on the 3rd November 2023. The submission was registered and is now a live planning application with a likely Planning Committee date in early 2024.
- 16 A further meeting was held on the 13th November 2023, attended by the Council, (including its technical advisors / reservoir engineer), Poynton Town Council, and the Friends of Poynton Pool. The meeting was also joined by the regulatory body, the Environment Agency. Again technical details, risk management, and works approach were discussed.
- 17 As referenced in the report to Economy & Growth Committee in June 2023, various options have been considered. These included not acting, drawing down the reservoir, a full engineering solution, a risk-based solution and a wide range of other options that have been either developed by the engineering team or presented by members of the public (including Friends of Poynton Pool)
- 18 Do nothing. There is no credible 'do nothing' option. The Council is compelled to undertake the work because of its statutory duties as 'Undertaker' in accordance with the Act and its general responsibilities around health and safety as a landowner. Should the Council choose not to do this, the Supervising Panel Engineer is statutorily bound to take steps to compel the Council by serving notice, alongside the potential risks of consequential legal action.
- 19 Full engineering solution. The Council could adopt a full engineering solution, in effect bringing the reservoir up to modern standards. The Council has been advised that this is not required at this time, that it would be more expensive, and would be more environmentally impactful than the proposed solution.

- 20 A risk-based solution minimises the environmental impact and amount of work that is done to the reservoir whilst also delivering the works needed to make the reservoir safe.
- 21 Other options (i.e. proposals to amend the risk-based solution). A wide range of other options have been proposed by the public and have been fully considered. These have centred around preventing tree loss and included increasing the size of the outlet pipework but not carrying out crest works, removing silt from the pool, creating flood storage in Poynton Pool and /or using alternative materials to construct the kerb.
- 22 Each alternative proposed has been carefully considered by the Councils consultants. Unfortunately, none of the options would deliver a better outcome, with these either not providing the protection needed by the preferred option or they are more impactful to the park, including significantly greater tree loss.

Consultation and Engagement

- 23 The Council has consulted with Ward councillors and Poynton Town Council, since late 2022.
- 24 A public meeting was held in Poynton in October 2022. The Council has responded to numerous letters of enquiry and challenge. The Council has engaged positively with the community group, Friends of Poynton Pool, along with the Town Council, and substantive meetings were held recently in July 2023, and November 2023.
- 25 The proposal is now subject to a live planning application and all relevant parties will be engaged with under further consultation under the planning process and can make representation to the planning committee.

Reasons for Recommendations

- 26 In accordance with paragraph 4.29 of Chapter 3 of the Constitution (July 2023) and Chapter 7 and the Petitions Scheme of the Constitution, petitions signed by over 5000 petitioners may be accepted at the start of a meeting of a committee.
- 27 Other Options Considered

Option	Impact	Risk
Do nothing	Council would be seen not to be open and transparent	The Council could be open to Challenge

Implications and Comments

Monitoring Officer/Legal

- 28 In accordance with paragraph 4.29 of Chapter 3 of the Constitution (July 2023) and Chapter 7 and the Petitions Scheme of the Constitution, petitions signed by over 5000 petitioners may be accepted at the start of an ordinary Council meeting or a service committee.
- 29 A Petition should relate to an area or the functions of the Council or relate to a consultation exercises or be pursuant to specific legislation, may be accepted at the start of an ordinary Council meeting or a service committee.
- 30 The petition organiser must register the petition with the Head of Democratic Services and Governance. The Petition must be signed either in person or electronically by at least 5,000 petitioners and contain the name and contact details of the petition organiser. Each signature must be supported with a clear indication that the signatory is a resident of the Borough and on the electoral register. Under the Councils Petitions Scheme it would be usual for the Committee to consider the matter and to determine if any further action should be taken, such as request that an officer report be submitted to the committee at a later date of if the petition is of significant importance to the whole borough can decide that the petition be debated at Full Council.
- 31 It is noted that the proposal is subject to a live planning application to which the Council is a participant and therefore it may not be appropriate at this time for the Committee to consider the petition any further as this may prejudice the ongoing planning application.
- 32 There are no other direct legal implications arising from the recommendations of this report currently. Any decision of the committee which gives rise to the need for a further report may have legal implications, which will be assessed at that time.
- 33 Legal comments were provided previously for the report to Economy & Growth Committee on the 6th June 2023.

Section 151 Officer/Finance

- 34 There are no direct financial implications arising from the recommendations of this report. Any decision of the committee which gives rise to the need for a further report may have financial implications.
- 35 Finance comments were provided previously for the report to Economy & Growth Committee on the 6th June 2023.

Policy

- 36 There are no direct policy implications, however there may be such implications as a consequence of any further action taken.

Equality, Diversity and Inclusion

- 37 There are no direct equality implications, however there may be such implications as a consequence of any further action taken. Such matters will also be considered by the relevant planning committee.
- 38 As identified under the previous report, the public right of way would be improved, and this may have benefits for residents with physical disabilities, however the existing path would be closed for the duration of the works, although there are alternative routes.
- 39 While we acknowledge the removal of trees may be impactful on the mental health of some residents the Council also has a statutory duty to maintain a safe working area for those undertaking the works, has the requirement to comply with the reservoirs act and manage the asset in future years.

Human Resources

- 40 There are no direct human resource implications, however there may be as a consequence of any further action taken.

Risk Management

- 41 The Council has to deliver a scheme which is unpopular with local residents but not to do so would see it contravene its statutory obligations. It has sought to mitigate this issue by engagement with the public and seeking alternative solutions, unfortunately these have not delivered a viable alternative. However, through this exercise the Council has received and tested proposed alternatives and also refined its proposals based on the comments and feedback it has received. This is now the subject of a live planning application, and full information is on the planning portal.
- 42 In compliance with the Reservoirs Act 1975 the Council has appointed appropriately qualified and experienced engineers from the DEFRA appointed all reservoirs panel. Both Panel engineers are from a very small cohort of expert engineers that are formally appointed to undertake this type of specialist work. Whilst there are on occasions, alternative outcomes for consideration, the engineers currently agree in this case with the risk-based approach that has been adopted for the proposed works.

- 43 The Council has also tested its draw down plan in early May as part of the Council's emergency planning process. This involved all the emergency services and the Environment Agency. This desk top exercising of the plan provided useful feedback which will be used to enhance the draw down plan.
- 44 Undertaking work set out in this report would reduce the risk exposure of the Council as a reservoir undertaker. Drawing down the Reservoir, thereby removing the risk or delivery of a full engineering solution may reduce this risk further but would have a greater visual and environmental impact than the proposed solution. Other proposed risk-based approaches would not deliver the risk management required to satisfy the Inspecting Engineer allowing them to satisfy their and the Council's statutory obligations under the Act.

Rural Communities

- 45 There are no direct implications on rural communities, however there may be as a consequence of any further action taken.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 46 There are no direct implications of the decision to receive the petition, however there may be as a consequence of any further action taken.

Public Health

- 47 There are no direct implications of the decision to receive the petition, however there may be as a consequence of any further action taken.

Climate Change

- 48 There are no direct implications of the decision to receive the petition, however there may be as a consequence of any further action taken.

Access to Information

Contact Officer:	Peter Skates : Acting Executive Director – Place Peter.skates@chehireeast.gov.uk
Appendices:	Appendix 1 – Poynton Pool Petition.
Background Papers:	Item 7 Poynton Pool - Economy and Growth Committee on Tuesday, 6th June, 2023, Petitions-Scheme

Appendix 1

Petition Issue

Poynton Pool and the adjacent woodland is a considerable public asset. It is a Site of Biological Importance and a Habitat of Principle Importance. Based on a flawed flood study and despite less harmful alternatives being available to Cheshire East Council, the proposed removal of between 35 and 81 trees to enable improvements to the dam between the Pool and London Road North is deemed excessive and damaging to the local environment and to the considerable community asset.

The Signatories Formally request:

Cheshire East Council reviews the Poynton Reservoir Flood Study (2019) and if that identifies that works should be carried out to the dam at Poynton Pool:

1. the most environmentally friendly identified solutions are employed, with the objective of causing minimal disruption to the landscape, the ecology and the public enjoyment of the Park.
2. any cost/benefit analysis of the project includes both a Capital Asset Value for Amenity Trees (CAVAT) to account for the loss of amenity, and the DEFRA biodiversity offsetting metric to calculate a biodiversity net gain resulting from the project.
3. any subsequent mitigation planting is within the town boundaries