

Responses to Question – Economy and Growth Committee 26 January 2024

1. This petition was submitted on 4 October 2023.

Why has it taken almost 4 months for this petition to be heard?

The petition was formally submitted to Cheshire East Council on 18 October 2023. On receipt, the petition was reviewed in accordance with the petition criterion to establish whether further action could be taken in accordance with the procedure. Once it had been determined that the petition met the criterion, the petition organiser was notified on 8 November 2023, that the petition would be submitted to the first available meeting of Economy and Growth Committee, which was originally to be held on 16 January 2024.

Can CEC provide a rationale for submitting a related planning application on 3 November 2023 without considering the objections and wishes of the residents of Poynton?

The summary options report outlines the technically viable options and culminates in the option put forward for consideration by the planning authority. Alternative options have also been proposed during community engagement, meeting with Poynton Town Council and CEC members and these have been assessed on their merits but have been discounted for the reasons set out in the Summary Options Report and Statement of Community Involvement.

Additionally, the scheme was altered in direct response to feedback received from the Public Consultation in the following ways:

- The footpath width has been reduced in places so the greatest number of trees can be retained.*
- The placement of the two 40m cleared areas has also been adjusted to further reduce tree loss.*
- Trees on the pool side of the crest will also be retained to provide screening.*
- Clarified that only 31 individual trees would need felling (rather than 44 trees requiring felling and a further 37 trees` at risk) alongside the partial removal of a further two tree groups. Tree canopy management will also be undertaken on 47 trees. This will allow the safety improvements works to be done and maintained in the future.*

2 Why does the scheme fail to take account of the circa £3m CAVAT value of the trees?

The Circa £3m CAVAT value for trees is misleading in relation to the proposed scheme. We are aware that the Circa £3m CAVAT value comes from a report commissioned by Poynton Town Council. This report shows the CAVAT value of 150 trees on the pool side to be £3,081, 070. The proposed scheme only involves removal of 31 individual trees alongside the partial removal of a further two tree groups.

Notwithstanding this information, during the pre-planning application meeting and subsequent response the requirement to have a CAVAT assessment was not referenced. Local plan policy does not require CAVAT to be applied to schemes affecting woodlands and that the provision of Biodiversity Net Gain (BNG) requirements are appropriate such as is provided for this scheme.

The summary options report and the rest of the documents describe the scheme and discusses the mitigation measures required.

- 2a Have costs been allocated for the additional cost of the 30-year Landscape Management Plan whereby the contractor only manages the first year for defects/liability? Is CEC is taking on a significant 29-year financial liability?**

A Management Plan for Poynton Pool has indeed been prepared as part of the scheme. It is recognised that there will be future costs required to undertake this management on a yearly basis and that the Council needs to provide funds for this

However, it is important to note that the proposed works are required under the Reservoir Act 1975 regardless of any increase in maintenance costs that may be associated. There is already a maintenance cost associated with managing the park. The 30year management plan is required as part of the planning application.

- 3 The proposed mitigation planning is in Woodford, Stockport on land that is not accessible to the general public.**

Can CEC describe how this is replacing the lost amenity value to the residents of Poynton?

The function of the off-site habitat creation at Walnut Tree Farm is to replace the small loss of woodland habitat at Poynton Park and to satisfy national requirement for biodiversity net gain. Regarding the effect on amenity value for users of the park it is considered there will be a slight adverse effect at most. However, the proposed works will still create a pleasant 'parkland' environment for users.

- 4 This valid petition was lodged with the Council on 4 October 2023. It exceeded the 5% threshold of the local population which should trigger a public, full Council debate regarding residents' concerns according to 2009 legislation and subsequent guidance in 2010.**

Can CEC explain when this will take place, or why this is not happening?

Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) was repealed by the Localism Act 2011, Chapter 10 – Miscellaneous Repeals paragraph 46. Any

guidance from 2010 on the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) would no longer be relevant.

[Local Democracy, Economic Development and Construction Act 2009 \(legislation.gov.uk\)](#)

[Localism Act 2011 \(legislation.gov.uk\)](#)

Under the Localism Act 2011 it is for each local authority to decide how their petition scheme will operate. Cheshire East Council's current Petition Scheme is set out in its Constitution - [Petitions-Scheme](#). Under the Scheme a petition will be considered at Full Council if the Committee recommends any action which may amend the budgetary or policy framework of the Council's Constitution.

5 The Council's original decisions were based on information considered to be accurate in the engineers' reports.

Previous representations to the Economy and Growth committee were made prior to:

- **FoPP identifying gross errors in the Spillway Upgrade: Initial Options Report, 2021**
- **the amendment of reports to correct the errors we identified**
- **release of the amended Summary Initial Options Report, 2023, Summary Options report, and other documents that only became available with the planning application.**

All of which is another indication of the Council's failure to consult with the community. FoPP have not hidden our interest in this project. It cannot be said that the committee has previously considered these issues, because they were not published or otherwise available.

Since June 2023 these reports have been identified as inaccurate. Is it not incumbent on CEC to ensure that the accuracy of the information is re-assessed and the original decision scrutinised to ensure that public funds are correctly used?

We acknowledge that Figure 4.3 of the Initial options report was adjusted. The boundaries of the As Low As Reasonably Practicable, ALARP, zone were originally incorrectly plotted but the point plotted on the graph was correct.

The graph now shows the plotted societal risk point sits at the top of the ALARP zone. While the societal risk point is in the ALARP zone this does not mean the risk is tolerable.

There was no changes required to the cost benefit analysis despite the correction done. (see section 5 of the initial options report)

<https://www.cheshireeast.gov.uk/pdf/highways/poynton-relief-road/poynton-pool-spillway/poynton-pool-initial-options-report-redacted.pdf>

The adjustment to the FN frequency-consequence chart does not change the Cost Benefit Analysis, CBA. Also for the proposed option it is economic even if loss of life is neglected, as benefits of the reduced likelihood of property damage, over next 100 years, outweighs the cost of the scheme.

Independent reviews of both the proportionality and scheme risks have been undertaken. These independent reviews were commissioned by Poynton Town Council and copies of the reports are available on the Town Council website. The proposed measures were reviewed by JBA Consulting and in their report it states:

There are of course possible alternatives, and I would be surprised if the Council's engineering consultants have not already explored these. An alternative to making the dam crest overtoppable is to raise it (and to combine this with an increase to the flow capacity of the existing spillway). Although I have not undertaken any calculations, I would estimate that raising on its own would be of the order of a metre and perhaps more and would need to extend the full 800 metres of the dam crest if not more. This would have a significant impact - as most of the trees along the entire length of the dam would need to be felled and removed. A larger spillway would be very expensive, involve partial closure of the London Road during the works, and would still require some raising of the dam and removal of trees. The option proposed therefore does appear to be a reasonable compromise between maintaining reservoir safety and minimising impact. There are also potential opportunities to incorporate the works into a tree and open space management plan.

<https://www.poyntontowncouncil.gov.uk/UserFiles/Files/Report%20from%20JBA%20Consulting%20Independent%20Reservoir%20Engineers%20instructed%20by%20the%20Town%20Council.pdf>

The proposed scheme risk was reviewed by Professor David Ball in his report of August 2023. This report is Appendix A of Poynton Town Council response to the planning application 23/4152M

<https://www.poyntontowncouncil.gov.uk/UserFiles/Files/News/Town%20Council%20draft%20response%20to%20Poynton%20Pool%20Planning%20Application%20UP%20TO%20DATE.pdf>

In clause 5.4 of Professor Balls' report it states:

5.4 In Table 1 I have repeated the calculations for Options 3A, 3B and 3C upper. Option 3C upper has been pinpointed by Jacobs as "worthwhile whilst the other options are marginally proportionate" (Executive summary). For 3C upper I have put some figures in red. This is to highlight that these numbers are negative. The reason is all about the estimated projected savings on property **damage** which comes to £0.60M over 100 years and is marginally greater than the projected preset-day cost of the scheme. If the Jacob's cost estimates are correct,¹⁴ this would suggest 3C upper is a rational choice because the benefits of the scheme in the form of reduced property **damage** would exceed its costs, even were it to save no lives. The question of proportionality, which in these contexts is usually about life saving costs, is not

As means of explanation 3C upper referenced by Professor Ball is the proposed scheme we have brought forward to planning.

6 Poynton Pool is a statutory reservoir and whilst it is mandatory that it is managed in accordance with the Act it is not mandatory that the option 3C is implemented.

Given the errors in the original engineers' report, the overstatement of pool volume, the pool catchment area and lack of understanding of the pool dam structure, and that this scheme is not mandated why is CEC proceeding with this proposal?

The volume of water in this body of water only determines whether or not it comes under the Reservoirs Act 1975. All bodies of water over 25000m³ come under the inspection regime of the Reservoirs Act 1975 and they must be inspected at least every 10 years. Available data shows that the greatest capacity of Poynton Pool is 130000 m³.

As the process is not solely reliant on specific capacity / volume data, the exact capacity of escapable contents from the pool has limited impact in relation to the number of people at risk and the outcome result would still be the same.

All Reservoir Panel Engineers (ARPEs) take into account several criteria, variables, and risk factors, of which reservoir capacity is but one. The key criteria, identified by the Environment Agency, are that:

- *3,500 people are at risk if the reservoir was to fail during flood conditions*
- *Two people are likely to die*
- *The estimated £79m cost of the property damage if the dam failed*

The ARPE considers the that the reservoir embankment fails completely in terms of the standards expected for these consequences.

In general, it is also expected that more stringent and stricter measures are likely to be introduced by future Inspecting Engineers, going forward.

The catchment area is correct. However, storms are all individual in their nature and can have varying levels of impacts. For example, it depends on where in the catchment the rain falls, the profile and duration of the rainfall and the degree of waterlogging in the catchment prior to the storm. The possible degree of flooding also depends upon the level of water in the reservoir at the time of the event and its additional storage capacity at the time of the storm.

As per the guide to Floods and Reservoir Safety our consultants have assumed a catchment wide storm occurs, of a standardised rainfall profile shape with a reasonable worst-case duration, onto a catchment with design assumptions on how wet or dry the ground already is when the rainfall occurs. We have also assumed that the reservoir is full and just spilling at the time of the event.

A review of published geological information, as given on British Geological Society, BGS, GeoIndex, was carried out as part of the initial options report

<https://www.cheshireeast.gov.uk/pdf/highways/poynton-relief-road/poynton-pool-spillway/poynton-pool-initial-options-report-redacted.pdf> (section 3.3 refers) suggests that the geology of the reservoir area, likely to be the source of fill to build the dam embankment, was marl and so likely to be relatively low permeability.

Ground investigation was considered prior to planning. However, given there was no clear concern as to the stability or permeability of the dam embankment, in the last section 10 report it was not considered absolutely necessary in this case, and the likely tree loss by such investigations, they were not undertaken.

In addition, the last Section 10 report (under the Reservoirs Act 1975) did not require a ground investigation of the dam, or its foundation. The report further noted that “The reservoir works and the embankment are largely in a satisfactory condition”.

As the proposed works comprise stripping topsoil so the crest marker is in contact with low permeability fill below, an understood project risk is that a fill suitable for the formation of the crest markers is not found, and that deeper excavation is required. However, stripping the topsoil and removal of the tree roots will in effect be a series of trial pits, so at this stage, checking of the soil exposed by stripping of topsoil would be used as investigation of the marker foundation, this is considered sufficient investigation.

We are proceeding with the proposal because we have statutory responsibilities as the owner / operator for the reservoir. The reservoir does not meet modern standards. 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.

7 The flood study is based on data points that are incorrect.

Can CEC please explain what happens to the assessment if the correct data points are used in terms of water level and catchment area?

There was no changes required to the assessment despite the change to the initial options report.

The pool does not meet modern standards so works need to be done to make it safer by increasing the resilience to floods.

8 Poynton Pool is a statutory reservoir and whilst it is mandatory that it is managed in accordance with the Act it is not mandatory that the option 3C proposal is implemented.

FoPP consider there are relatively straightforward options to upgrade the overflow capacity to pass the design flood whilst carrying out some nominal regulation and raising of the crest. These solutions would not

have the adverse visual impact, or loss of social value, acoustic screening and carbon capture that comes with option 3C.

Would CEC consider these alternative options?

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).

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.*

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.

All options considered have been set out in the summary options report <https://www.cheshireeast.gov.uk/pdf/highways/poynton-relief-road/poynton-pool-spillway/summary-options-report-redacted.pdf>

- 9 4 years have now elapsed since the certificate 10(6) was issued and the spillway capacity has not been addressed so the Supervising Engineer can call for an S10 Inspection, this effectively brings the Inspection forward from August 2026.**

Would CEC consider deferring this proposal and calling for a new S10 inspection, and if not, why not?

Poynton Pool is currently compliant with the Reservoirs Act 1975, in that the mandatory actions following the S10 inspection to address ‘matters in the interests of safety’ have been completed. There are no outstanding inspections due, and an appointed reservoir panel Supervising Engineer is in place. Additional ‘follow on works’ were recommended as part of the existing inspection report – to safely convey (pass on) on extreme floods, which included the development of a flood study and drawn-down plan, together with a recommended timescale within which to complete the works. (December 2023). Currently the works are non-statutory, and the EA cannot undertake any enforcement action.

We can confirm the flood study and draw-down plan have been completed. The ‘Spillway improvement proposals’ currently under development and submitted for planning being the Council’s risk-based approach solution to address the ‘follow-on’ recommendations, together with some planned additional repairs to the existing drainage system.

The timescale within which the recommendations were due to be completed has now expired, so the likely action to be undertaken by the appointed Supervising Engineer is either to call for an early reinspection or they could resign from their duties (if it was felt that matters were not being addressed sufficiently and the Council would have to appoint a suitable replacement from the available panel).

The appointed Supervising Engineer has advised that calling for an inspection is unlikely to change the recommendations of the 'follow-on' works but confirmed that upon reinspection, they will become mandatory and include a statutory compliance date within which the Council would need to undertake the works. Failure to meet this date could result in enforcement action being taken by the EA. This can include step in rights to take control and implementation of the recommended works and or in an emergency capacity, make the reservoir safe. This could include emptying the reservoir.

The Council has therefore taken steps to meet the expected statutory requirements and comply with the legislation. The submitted planning application is one of the required key actions in working towards achieving this.

- 10 The proposed Option 3C scheme is fundamentally the same as that which went out for public consultation.**

If the Council has tested alternative solutions can we have sight of the dated reports from these tests? Is there a fully costed analysis that can be shared?

All options considered have been set out in the summary options report <https://www.cheshireeast.gov.uk/pdf/highways/poynton-relief-road/poynton-pool-spillway/summary-options-report-redacted.pdf>

- 11 What has been described as discussions with Poynton Town Council and FoPP were not discussions, they were meetings where all suggestions for more proportionate solutions were dismissed.**

As stated at point 6, this meeting was predicated on the information originally supplied as being correct, if it was not, then the meetings and decisions taken are invalid at best.

Given the issues highlighted, is CEC not required to review and question the decisions taken to date?

There were no changes required to the assessment despite the change to the initial options report.

The pool does not meet modern standards so works need to be done to make it safer.

The suggested options brought forward by FoPP and Poynton Town Council been included in the summary options report but did not justify changing the preferred solution.

- 12 At this meeting of 13th November, it was acknowledged by the Environment Agency that the guidance, and therefore the approach taken at Poynton Pool, needs to be updated to reflect current thinking on risk management and risk decision making as set out in the UK Treasury's Green Book (designed to provide for equitable decision making across government).**

Given the committee makes risk-based decisions on the allocation of resources, the least that might be expected is that, as advised to the council and Jacobs by Professor David Ball (Director of the Centre for Decision Analysis and Risk Management) you follow current guidance rather than the outdated court precedent relied upon by the Council's engineers, which was set in 1947.

Can CEC provide the justification as to why the Green Book decision making approach has not followed?

The economic analysis of potential dam safety works follows the guidance given in "Risk Assessment for Reservoir Safety management" (RARS), issued by the Environment Agency/ DEFRA <https://www.gov.uk/flood-and-coastal-erosion-risk-management-research-reports/risk-assessment-for-reservoirs>

The key difference between the DEFRA RARS guidance and guidance, in the 'Green book', is that the DEFRA guidance included a disproportionality factor, in that where risk of death is imposed on the public then the level of risk should be lower than risks they choose to accept, for example by driving and thus being exposed to the risk of injury/ death when involved in a road traffic accident.

The DEFRA guidance is consistent with HSE guidance developed for use when considering risk of death to the public due to other high hazard industries e.g. COMAH (Control Of Major Accident Hazards) sites, nuclear power stations etc.

- 13 To state the Council is compelled to this work because of statutory duties is incorrect. Poynton Pool is a statutory reservoir and whilst it is mandatory that it is managed in accordance with the Act it is not mandatory that the option 3C is implemented.**

Given FoPP findings that the embankment might be a permeable weir, doing nothing might actually be a credible option, but this will not be known without a competent assessment of the composition of the embankment.

The Council could be spending c £1.38m of public money, and cause irreparable damage to a historic public asset, when the work may not be required.

Why at a time when the Council is planning significant cuts to local services is it not incumbent on CEC, to understand exactly what they are dealing with before allocating funding to a proposal that is not mandated and may not be required in its current form?

We are proceeding with the proposal because we have statutory responsibilities as the owner / operator for the reservoir. The reservoir does not meet modern standards. 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.

14 The Council's risk-based solution does not minimise or adequately consider the environmental impact. The loss of mature healthy trees, destruction of wildlife habitats and irreparable damage to the landscape at Poynton Pool is a significant cost in any reasonable cost benefit analysis.

Is CEC fully aware of the permanent negative impacts this work will cause?

National guidance for the valuation and compensation for the loss of woodland advises that the biodiversity offsetting metric should be used. This approach has been adopted for this development, where offsite habitat creation will provide biodiversity net gain and therefore compensate the loss (in habitat and biodiversity terms).

The landscape and visual, ecological and arboricultural assessments that have been produced to support the planning application have fully assessed the impact to the woodland habitat, the ecological species using the habitat and landscape character and visual amenity. This has identified localised and slight negative impacts as the result of the development, therefore CEC are fully aware of the impacts

15 Did the assessment also detail what criteria were used to define “a better outcome”?

Each alternative proposed has been carefully considered by the Councils consultants. Unfortunately, none of the options would address the reservoir safety requirements as they either:

- did not provide the protection needed by the preferred option or*
- they are more impactful to the park, including significantly greater tree loss.*

All options considered have been set out in the summary options report <https://www.cheshireeast.gov.uk/pdf/highways/poynton-relief-road/poynton-pool-spillway/summary-options-report-redacted.pdf>

The summary options report outlines the technically viable options and culminates the option put forward for consideration by the planning authority. Alternative options have also been proposed during community engagement, meeting with Poynton Town Council and CEC members and these have been assessed on their merits but have been discounted for the reasons set out in the Summary Options Report and Statement of Community Involvement.

- 16 The consultation has been little more than a box-ticking exercise, as is evidenced by the public distrust of the Council. The approach taken by its officers is damaging the reputation of the Council.**

How does CEC intend to address this aspect of the engagement?

The engagement period for the scheme ran for 6 weeks, from the 26th September to the 4th November 2022. During the week of 26th September 2022 advertisement of the consultation was released via the media, council web page and on CEC's social media feeds.

Advertising of the consultation on site by poster and in the Town Hall was undertaken to encourage participation. These were in place for the duration of the consultation period.

Face to face meetings were held with Poynton Town Council, FoPP representatives, elected ward members and an Environment Agency representative.

Details of the consultation undertaken, and the feedback received, are set out in the Statement of Community Involvement <https://docs.cheshireeast.gov.uk/aniteim.websearch/Download.aspx?ID=8520588>

The scheme was altered in direct response to feedback received from the Public Consultation in the following ways:

- The footpath width has been reduced in places so the greatest number of trees can be retained.
- The placement of the two 40m cleared areas has also been adjusted to further reduce tree loss.
- Trees on the pool side of the crest will also be retained to provide screening.
- Clarified that only 31 individual trees would need felling (rather than 44 trees requiring felling and a further 37 trees at risk) alongside the partial removal of a further two tree groups. Tree canopy management will also be undertaken on 47 trees. This will allow the safety improvements works to be done and maintained in the future.

Additionally alternative suggested options were considered and these have been assessed on their merits, but have been discounted for the reasons set out in the Summary Options Report and Statement of Community Involvement.

- 17 The fact that CEC even considered a ‘do nothing’ option in regards to a petition of 5,820 constituents is shocking.**

Does CEC feel that the right tone was set at the outset of the engagement with the constituents?

The engagement period for the scheme ran for 6 weeks, from the 26th September to the 4th November 2022. A variety of formats of advertising of the consultation were used to encourage participation.

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Additionally alternative suggested options were considered and these have been assessed on their merits, but have been discounted for the reasons set out in the Summary Options Report and Statement of Community Involvement.

- 18 That the petition now relates to a live planning application is an irrelevance. We are petitioning the Council as landowner not as local planning authority. The Council is obligated to separate these functions where there is a potential conflict of interest.**

If the proposal lacks factual accuracy, then the Council would be guilty of wasting public funds, particularly at a time when the Council has a significant financial deficit and is proposing multiple service cuts.

Surely this is something that CEC should have debated fully before proceeding with a planning application?

The reservoir has failed to meet current safety standards. This has been independently identified through the statutory Section 10 inspections process and has been further independently corroborated by an expert appointed by Poynton Town Council.

As the owner / operator for the reservoir 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.

Independent reviews of both the proportionality and scheme risks has been undertaken. These independent reviews were commissioned by Poynton Town Council and copies of the reports are available on the Town Council website. The proposed measures were reviewed by JBA Consulting and in their report it states:

There are of course possible alternatives, and I would be surprised if the Council's engineering consultants have not already explored these. An alternative to making the dam crest overtoppable is to raise it (and to combine this with an increase to the flow capacity of the existing spillway). Although I have not undertaken any calculations, I would estimate that raising on its own would be of the order of a metre and perhaps more and would need to extend the full 800 metres of the dam crest if not more. This would have a significant impact - as most of the trees along the entire length of the dam would need to be felled and removed. A larger spillway would be very expensive, involve partial closure of the London Road during the works, and would still require some raising of the dam and removal of trees. The option proposed therefore does appear to be a reasonable compromise between maintaining reservoir safety and minimising impact. There are also potential opportunities to incorporate the works into a tree and open space management plan.

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In clause 5.4 of Professor Balls' report it states:

5.4 In Table 1 I have repeated the calculations for Options 3A, 3B and 3C upper. Option 3C upper has been pinpointed by Jacobs as "worthwhile whilst the other options are marginally proportionate" (Executive summary). For 3C upper I have put some figures in red. This is to highlight that these numbers are negative. The reason is all about the estimated projected savings on property **damage** which comes to £0.60M over 100 years and is marginally greater than the projected preset-day cost of the scheme. If the Jacob's cost estimates are correct,¹⁴ this would suggest 3C upper is a rational choice because the benefits of the scheme in the form of reduced property **damage** would exceed its costs, even were it to save no lives. The question of proportionality, which in these contexts is usually about life saving costs, is not

As means of explanation 3C upper referenced by Professor Ball is the proposed scheme we have brought forward to planning.

- 19 This proposed scheme which involves the removal of mature healthy trees is not a mandatory requirement. 31 of the 86 mature trees recorded in the tree survey will be removed and the remaining mature trees will be "Compromised and likely lost."

This will severely compromise the landscape and impact negatively on residents visiting the park and pool.

Why are the other less invasive proposals not suitable. Kindly share the findings of why?

Alternative suggested options were considered and these have been assessed on their merits, but have been discounted for the reasons set out in the Summary Options Report and Statement of Community Involvement.

- 20 The Council does not 'have to' deliver this scheme. It is within the gift of this Council to deliver a scheme that is proportionate to the risk, but first it would be necessary to carry out the aforementioned investigations to improve confidence in any decision. The current proposal is a 'belt and braces' approach because the current level of knowledge is insufficient to inform a confident judgement.

The report is still written on the basis that all the detail contained in the engineers' report is correct, if this is not the case, then this statement is invalid and the statutory obligation is null and void.

Indeed, is there not a statutory obligation to operate with accurate information at all times when dealing with public funds?

How can CEC move forward with this proposal given the issues highlighted?

Poynton Pool is currently compliant with the Reservoirs Act 1975, in that the mandatory actions following the S10 inspection to address 'matters in the interests of safety' have been completed. There are no outstanding inspections due, and an appointed reservoir panel Supervising Engineer is in place. Additional 'follow on works' were recommended as part of the existing inspection report – to safely convey (pass on) on extreme floods, which included the development of a flood study and drawn-down plan, together with a recommended timescale within which to complete the works. (December 2023). Currently the works are non-statutory, and the EA cannot undertake any enforcement action.

We can confirm the flood study and draw-down plan have been completed. The 'Spillway improvement proposals' currently under development and submitted for planning being the Council's risk-based approach solution to address the 'follow-on' recommendations, together with some planned additional repairs to the existing drainage system.

The timescale within which the recommendations were due to be completed has now expired, so the likely action to be undertaken by the appointed Supervising Engineer is either to call for an early reinspection or they could resign from their duties (if it was felt that matters were not being addressed sufficiently and the Council would have to appoint a suitable replacement from the available panel).

The appointed Supervising Engineer has advised that calling for an inspection is unlikely to change the recommendations of the 'follow-on' works but confirmed that upon reinspection, they will become mandatory and include a statutory compliance date within which the Council would need to undertake the works. Failure to meet this date could result in enforcement action being taken by the EA. This can include step in rights to take control and implementation of the recommended works and or in an emergency capacity, make the reservoir safe. This could include emptying the reservoir.

The Council has therefore taken steps to meet the expected statutory requirements and comply with the legislation. The submitted planning application is one of the required key actions in working towards achieving this.

- 21 Given that the engineers have been described by your officers as the 'subject matter experts' why have they advanced this catastrophic solution when contrary to guidance from their own professional body: "The judgement of appropriate dam freeboard is then derived using this overtopping discharge, and knowledge of the condition and composition of the dam crest and downstream slope."**

If the engineers do not know the composition of the dam embankment, how is it possible to set the parameters for an engineered structure?

As there was no clear concern as to the stability or permeability of the dam embankment, in the last section 10 report it was not considered absolutely necessary in this case, and the likely tree loss by such investigations, they were

not undertaken. In addition, the last Section 10 report (under the Reservoirs Act 1975) did not require a ground investigation of the dam, or its foundation. The report also notes that "The reservoir works and the embankment are largely in a satisfactory condition"

As the proposed works comprise stripping topsoil so the crest marker is in contact with low permeability fill below, an understood project risk is that a fill suitable for the formation of the crest markers is not found, and that deeper excavation is required. However, stripping the topsoil and removal of the tree roots will in effect be a series of trial pits, so at this stage, checking of the soil exposed by stripping of topsoil would be used as investigation of the marker foundation, this is considered sufficient investigation.