
From: Curley, Jane
Sent: 17 July 2023 15:26
To: Planning Comments (SMDC)
Subject: FW: Reservoir safety issues in quarry 3 /Moneystone applications SMD/2019/0646 and SMD/2022/0014
Attachments: Response letter June 2023.pdf

Categories:

Jane Curley (Mrs)
Senior Planning Officer (Majors &
Commercial) Mobile

From: SheilaWalters
Sent: Monday, July 17, 2023 2:26 PM
To: Curley, Jane
Subject: Reservoir safety issues in quarry 3 /Moneystone applications SMD/2019/0646 and SMD/2022/0014



Dear Mrs Curley

Reservoir safety issues in quarry 3 /Moneystone applications SMD/2019/0646 and SMD/2022/0014

Contrary to Mr Acland's letter to you last November regarding the classification of the lagoon in quarry 3 at Moneystone

we have recently heard from him on behalf of the Environment Agency to say that it has upheld the CVCS complaint concerning the nature of the report by the panel engineer Mr Penman, whom you may recall worked for an agency Mott McDonald who had had previous links with Laver Leisure in the 2017 Appeal procedures, and his involvement in the subsequent Discontinuance Order following the unauthorised damage to the bund in 2021 by Abbeydale BEC.

I enclose a copy of his letter for verification in case you have not yet been informed, though I would have hoped that you are already aware as this raises a number of points once again regarding the legalities of registering the reservoir,
the damage to the dam/ bund and the safety checks required to ensure the development of the site can proceed in accordance
with the plans.

These essentials outlined by Mr Acland will delay matters substantially and therefore on the regulatory, legal side SMDC
must now consider once again its position referring to the damage done to the bund .

Mr Haywood's view was that the repair would be effected under the terms of the 0014 application should it be granted permission.
However as has been pointed out to him, that is an assumption that is biased in favour of the applicants, and as the action of
damage was carried out by the applicants' agents contrary to the legal expectations of both SMDC as the LPA and the EA who
required the appropriate permission to have been obtained beforehand, it warrants mitigation and remediation at least in the interim.

This was a large raised reservoir designated in March 2021 and the damage in June was carried out blatantly in a bid to avoid
licensing costs and legal procedures arising from that classification.
Ironically these latter issues will now arise again as Mr Acland's letter explains.

It should also be recorded that such actions by Abbeydale on behalf of the applicant constituted an Offence under the 1975
Reservoir Act Section 13(1):
namely

"Altering a reservoir in order to render it incapable of holding more than 25,000 m³ of water without employing a qualified civil
engineer to design or approve and supervise the alteration.

The standard criminal and offence specific responses are:

warning, formal caution, prosecution"

Also the legal requirements for registering a reservoir requires much detail from the owners and operator and the law specifies
that you must follow Health and Safety Executive regulations and local council building regulations, whether you need to register

your reservoir or not.

Failure to comply with the building regulations as in this case where no permission to excavate and destroy the reservoir dam's overflow safety system had been obtained by Abbeydale, contravened the regulations. SMDC as the local authority has a general duty to enforce the building regulations in its area and should seek to do so by informal means wherever possible. If informal enforcement does not achieve compliance with the regulations, the local authority has two formal enforcement powers which it may use in appropriate cases. In this instance remediation at least should be insisted upon to fill in the excavation in advance any potential permission and restore the integrity of the dam /bund in advance of the registration procedure taking place and not rely upon the presumptive issue of permission in 0014.

Also, as the EA should confirm, the owner/ operator ie Laver, have duty of monitoring and supervising under the Reservoir Act which includes in section 11 :- the recording of water levels etc. depth of water, including the flow of water over the waste weir or overflow leakages, settlements of walls or other works, and repairs;

As you should be aware by now, there has been no record of supervision in the last 12 years and no safety inspection of the site either as a reservoir and/or by HSE as a quarry tip.

We feel these are factors that the LPA should be checking with the statutory authorities to ensure compliance as part of its consideration of the applications involved with quarry 3 at Moneystone.

For example have you received and reviewed the flood plan that is another obligatory safety requirement that the owners and operators should have in place under section 12 of the Act ?

Likewise have you seen evidence from the applicant of adherence to the Government Guidance on spillways in the documentation of the SMD/2021/0014 application?

These are vital aspects of safety that are inter linked to the stability of the site and should be included in any review relating to the applications.

For example Wardle Armstrong in its initial peer review report which was commissioned on your behalf and for your benefit in terms of essential technical assessment, stated as follows :-

2.3.6 "The assessment is based on maintaining a stable lake water level below the existing 155m AOD bench to assist slope stability. It is understood that as part of the 2022 planning application (reference SMD/2022/0014) the required water level would be 156m AOD for the proposed development. Due to lake water level changes (a rise of 1m) the stability assessment should be reviewed and this letter report [3] should be revised if appropriate."

"Assessment of the proposed development should be undertaken in accordance with the Quarry Regulations 1999. While strictly speaking these regulations do not apply to a non-operating quarry, they provide best practice and guidance on the geotechnical design of a quarry and its slopes, to ensure the safety of slopes, occupiers and adjacent land."

Government regulations also state that "when dealing with land that may be unstable, the planning system should work alongside a number of other regimes, including: Building Regulations, which seek to ensure that any development is structurally sound; and the HSE so that there is a general duty on the site operator to ensure the safety of quarry excavations and tips; and that once abandoned the quarry is left in a safe condition, as required under the Quarries Regulations 1999."

Have you sought any guidance from or contacted the HSE over the safety element involved in this quarry and its applications under those regulations regarding the presence of deep water and instability in the post quarrying cessation conditions now prevailing at the site ?

In view of all of the above, we would hope that you are able to satisfy the required criteria on all fronts as you contemplate your reports for the applications and can thus confirm and explain how you propose to deal with the current anomalies and shortcomings surrounding the applications SMD/2019/0646 and SMD/2022/0014.

Perhaps too you would be so kind as to confirm that, as the case officer, you will ensure that all documents pertaining to the issues raised here will be made available for the public to view on the council's websites.

The present lack of confirmatory evidence on these matters and the uncertainty surrounding them must count as a further ongoing objection so please accept this as such and add it to the application websites.

Thank you .

In the meantime we look forward to receiving your comments on the immediate questions outlined above.

Yours sincerely

David Walters
Secretary
Churnet Valley Conservation Society
CVCS

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