

<b>Application Number:</b>	2013/0393	<b>Application Type:</b>	Full
<b>Proposal:</b>	Flood defence works, including formation of bunds, embankments, weirs & associated works (retrospective)	<b>Location:</b>	Chatterton Recreation Ground, Chatterton Road, Chatterton
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	9 October 2013
<b>Applicant:</b>	Environment Agency	<b>Determination Expiry Date:</b>	30 October 2013
<b>Agent:</b>			

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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	
<b>Other (please state):</b>	<b>Council Owned Land</b>

## HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

### Article 8

The right to respect for private and family life, home and correspondence.

### Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

## 1. RECOMMENDATION

That Committee grant permission for the reasons set out in Section 9 and subject to the conditions at Section 10.

## 2. SITE

This application relates to land at Chatterton Recreation Ground, which is located to the north end of Chatterton Road and is owned by the Council, and a smaller area of land also bounding the River Irwell which to the other side of the un-adopted lane leading up to the bridge over the river giving access to Strongstry Road.

The application site and surrounding area are within Countryside designated as Green Belt and also within the Chatterton and Strongstry Conservation Area. The Irwell Sculpture Trail runs on the other side of the river to the recreation ground until the bridge over the river is reached , at this point crossing over the river to run eastwards through the application site.

### **3. RELEVANT PLANNING HISTORY**

None.

### **4. PROPOSAL**

In June 2012 land/properties in the vicinity of the recreation ground were inundated when the River Irwell over-topped its banks, initially to the north of Mint Street. In response to this flood event the EA undertook a detailed flood risk management study. This identified the need for enhanced flood defences in the area.

The main elements of the scheme devised are as follows:

- Formation of an embankment immediately adjacent to the river north of Mint Street, thereby raising the level of the existing track running here by up to 1m
- Construction of an inlet weir (12m wide) on the north side of the recreation ground and an outlet weir (4m wide) at its south-west corner, thereby enabling the recreation ground to act as a 'sump' in the event of a particularly high river level, so relieving other nearby areas of flood risk.
- Formation of a bund along the southern boundary of the recreation ground of up to 1.3m in height and 100m in length to deflect water that collects on the recreation ground back into the river.
- Removal of unstable sections of riverbank wall bounding the recreation ground and battering the land back.
- Removal of a length of metal railing bounding the track towards the north-east corner of the recreation ground to facilitate access to the work area by construction vehicles, and upon completion of the works erection in its place of a timber post-&-rail fence to match that on the other side of the track.

The scheme was the subject of consultation by the Environment Agency with local residents/landowners. Whilst the EA has far-reaching 'permitted developments' rights to undertake works within watercourses, and immediately adjacent to them, the intended works extended beyond what could be said to be their 'operational land'. As a consequence the scheme required submission of an application for Planning Permission. However, wishing to complete the works before the on-set of winter, the EA begun and largely completed the works before submission of the necessary application for Planning Permission.

The application is accompanied by drawings showing the location of all the above works, with fuller details/cross-sections of the weirs, embankment and bund. At my request the EA also commissioned an assessment of the trees on and bounding the recreation ground that might be affected by the works. The submitted Tree Report provides a full and frank assessment of the affect of the works undertaken :

*“Of the trees inspected along the [bund] (T1 to T22) the majority (more than two thirds) were assessed as being in good condition in terms of both health and structural condition. The trees inspected along the river [T23 to T81] were also found to be generally in good condition, one of the trees was found to be dead.*

*A number of the trees located adjacent to the [bund] appeared to be exhibiting some early signs of dieback in the outer canopy..... This could be as a result of the change in ground conditions since the construction of the embankment. A large number of the trees along the river had scrapes or gashes, mainly at the base of the bole and some had broken branches.....While some of the damage could have pre-dated the works, it is likely that a good proportion was as a direct result of storage of materials, trafficking and operation of machinery under the canopy.”*

## **5. POLICY CONTEXT**

### **National**

#### **National Planning Policy Framework (2012)**

- Section 7 Requiring Good Design
- Section 9 Protecting Green Belt Land
- Section 10 Meeting the Challenges of Climate Change, Flooding, etc
- Section 11 Conserving and Enhancing the Natural Environment
- Section 12 Conserving and Enhancing the Historic Environment

### **Development Plan Policies**

#### **Rossendale Core Strategy DPD (2011)**

##### **AVP6 South West**

- Policy 1 General Development Locations and Principles
- Policy 16 Preserving and Enhancing the Built Environment
- Policy 18 Biodiversity and Landscape Conservation
- Policy 19 Climate Change and Low & Zero Carbon Sources of Energy
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

### **Other Material Planning Considerations**

Chatterton and Strongstry Conservation Area Appraisal and Management Plan (2011)

## **6. CONSULTATION RESPONSES**

### **RBC (Property Services)**

That the Environment Agency wishes to reduce the risk of flooding that properties are at is to be welcomed. However, the EA will need to get separate agreement irrespective of any planning permission for the carrying out of works on Council owned assets.

## **7. NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a press notice was published on 13/09/13, site notices were posted on 06/09/13 and 101 letters were sent to neighbours on 05/09/13.

Whilst 3 local residents have written in support of the application (welcoming works to provide much needed protection to properties that were damaged by flooding in June 2012) 10 objections have been received. The latter make the following points:

- Object to appearance of the bund and use of the recreation ground as a ‘sump’ for flood-water
- The bund serves no flood defence purposes - it reduces the capacity of the flood-plain and the manner/materials of its construction mean it will get washed away - it is merely a cheap means of the EA disposing of waste material and is infested with Himalayan balsam & Japanese knotweed
- Being composed of river dredgings it will be contaminated with heavy metals, asbestos and other pollutants deposited in the river in yesteryear by textile and other factories

- The bund is a danger to children as it and the land behind it are used as a dog toilet, with glass and metal sticking out and allows children unseen by their parents to make their way down to the river and fall in down its steep side
- The bund harms heritage as it is over features associated with the former Aitken Mill
- Sides of slipways are hidden by stone walls but as they are not mortared there is a risk to children from falling stones
- Considerable damage has been done to trees - by its own admission three-quarters of the 80 trees within its survey area have sustained damage
- Replaced old, decorative railing with cheap timber fencing that is not in-keeping/long-lasting
- As regular walkers of the Irwell Sculpture Trail the recreation ground is often used to picnic and the bund spoils the beauty of the area

## 8. ASSESSMENT

The main considerations of the application are :

1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; & 4) Contamination.

### Principle

Both national and local Planning Policy is supportive of proposals to guard against flooding/reduce flood risk.

Engineering operations are not considered inappropriate development in the Green Belt providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt.

In this instance I do not consider that the scheme would conflict with the purposes of having included the recreation ground within the Green Belt or reduce to a significant extent the essentially open and rural of Green Belt.

I am satisfied that the need for enhancement of flood defences is sufficient to outweigh the harm to visual amenity arising from the works and the Communities Team have advised that they do not impinge significantly upon the functionality of the recreation ground, being around the periphery.

This being the case, there is considered to be no objection in principle to the proposal.

### Visual Amenity

The works undertaken do not detract to a significant extent from the character and appearance of the area. In the first instance the bund drew complaint regarding particularly its height and bare appearance. Contrary to a number of the objections to the application since received, the Environment Agency has confirmed that after an event in which water has overtopped the bank-top the bund serves a purpose in directing water back into the river channel. To a degree its immediate impact has reduced as it has greened over.

Over greater concern to me is the damage done to trees on the boundary of the recreation ground with the river by contractors employed by the EA and potential damage to trees near the southern boundary of the recreation ground by construction of the bund within the root-zone of some of them. The Tree Report submitted by the EA with the application acknowledges the harm done:

*"It is apparent that the trees adjacent to the flood embankment, T1 to T22 have been protected from unnecessary damage during construction. However, there is potential for the change in ground level within the root protection area of a number of these trees to have consequences on their future health. The ability of a tree to tolerate some disturbance and alteration of its*

*growing conditions varies and in general, the older the tree, the less successfully it will adapt to its new conditions. The part of a tree most susceptible to damage is the root system which is shallow and extensive. Mounding soil on top of roots will affect the roots ability to breath and reduced intake of oxygen, moisture or nutrients can result in a reduction in growth. Compaction may also have occurred within the rooting area and this will also affect the roots. Damage to or death of, the root system affects the health, growth, life expectancy and safety of the entire tree. If adversely affected, trees may be in decline over a period of several years until they die.”*

*Trees T23 to T81 located along the river have been adversely affected by temporary storage of materials under the canopy due to machinery strikes causing wounding of the bole and minor damage to branches. There should be no storage of materials or construction activity within the root protection area of retained trees.*

*Damage to the stem or branches of a tree is not usually sufficient to kill the tree directly, but if wood loses its protective cover of bark, it can initiate long-term decay. Such damage can also be disfiguring. Wounds very close to other wounds on the same tree and large wounds are higher risk than smaller ones and more likely to lead to extensive decay. Wounds in which the wood is scored or splintered are more likely to lead to decay than skinning wounds. The majority of wounds noted are small skinning wounds.*

*Earth moving operations may have caused soil compaction. This can result from temporary or short-term loadings, such as the passage of a single vehicle, especially in wet conditions or from longer-term construction activities, including material storage. Compacted soil will adversely affect drainage, gas exchange, nutrient uptake and organic content and could potentially seriously impede or restrict root growth.”*

After discussion of this matter with the Officer within Communities Team with responsibility for maintenance of the recreation ground, we consider that the EA should be required to compensate for the harm to trees now evident as follows :

- planting of 7 new trees (equivalent to one-third of T1 to T22) as they may have caused dieback with the bund to approaching this number of trees
- planting of 6 new trees (equivalent to one-tenth of T23 to T80) as they have caused damage to a large proportion of the trees bounding the river, but not such damage as is likely to kill any of them.

The submitted Tree Report indicates that:

*“As there are so many variables, some of which are not easily assessed, it is not possible to predict with any certainty the effect of soil level change on a particular tree. Trees which may have been adversely affected by the works, either through compaction of soil around the roots or by change of soil levels within a significant proportion of the root zone should be monitored on an annual basis..... Signs to look out for include small, dead, sparse or abnormally yellowish leaves, especially when in the upper crown and associated with twig dieback, this may indicate root-rot which has weakened the trees anchorage. However it should be noted that dieback is a protective measure and doesn't necessarily mean that the tree is dying.*

*The site, both adjacent to the [bund] and along the river should be inspected, ideally after a period of prolonged rainfall to check for areas of puddling which can indicate soil compaction..... If puddling occurs and compaction is evident remedial works, such as non-intrusive sub-soil aeration using compressed air, such as Terravent,*

*could be considered to relieve any compaction within the root protection areas of affected trees. “*

Such long-term monitoring and remediation measures can more appropriately be dealt with by the Council as Landowner with the Environment Agency, rather than by way of Planning Conditions. Likewise, with any increased maintenance liabilities for the Council arising as a result of the formation of the bund (including growth of Himalayan balsam & Japanese knotweed on it) or other works.

#### Neighbour Amenity

I am satisfied that the scheme has not resulted in a significant loss of amenity for any neighbours by reason of loss of light, outlook or privacy.

#### Contamination

Whilst it appears that use of river dredging to form the bund has introduced Himalayan balsam & Japanese knotweed (with consequent maintenance liability), there is no reason to believe that it contains any other material of concern; this matter is in any case best addressed by the Council as Landowner, rather than by way of Planning process. As previously indicated, RBC (Property Services) has made it clear that the EA will need to get separate agreement irrespective of any planning permission for the carrying out of works on Council owned assets.

### **9. SUMMARY REASON FOR APPROVAL**

The flood defence works forming a part of the scheme are considered to outweigh any harm arising from the designation of the site as Green Belt and, subject to conditions, the scheme is considered acceptable in terms of its effect on the character and appearance of the Chatterton and Strongstry Conservation Area, visual amenity, neighbour amenity and highway safety. The scheme has been determined having regard most particularly Policies 7/9/10/11/12 of the NPPF, and Policies 1/16/18/19/22/23/24 of the Council's adopted Core Strategy DPD (2011).

### **10. RECOMMENDATION**

That permission be granted subject to the following conditions:

#### **Conditions**

1. Within 2 months of the date of this decision a scheme of landscaping shall be submitted to the Local Planning Authority for its approval, to provide details of the planting to be undertaken in compensation for damage done to trees in the vicinity of the bund near the southern boundary of the recreation ground and bounding the river (to include not less than 13 trees). The approved scheme shall be implemented prior to 31/3/14 unless a variation is otherwise first agreed by the Local Planning Authority.  
Reason: To protect visual amenity, heritage and recreational amenity, in accordance with Policies in accordance with Policies 1 and 24 of the Council's Core Strategy DPD.