

# **KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE**

## **DEVELOPMENT MANAGEMENT**

**Town and Country Planning (General Permitted Development) (England)  
Order 2015 - Schedule 2, Part 18, Class A1**

### **DELEGATED DECISION FOR DISCHARGE OF CONDITION A1 - NOTIFICATION OF A PROPOSED DEVELOPMENT UNDER LOCAL OR PRIVATE ACTS OR ORDER**

**Reference no. 2025/CL/91013/W**

|                     |                                                                                     |
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| <b>Site Address</b> | <b>Slaithwaite Reservoir, Bank Gate,<br/>Slaithwaite, Huddersfield, HD7<br/>5XE</b> |
|---------------------|-------------------------------------------------------------------------------------|

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| <b>Description</b> | <b>Prior approval under part 18 for<br/>measures in the interest of safety<br/>under section 10 of the Reservoirs<br/>Act 1975, comprising upgraded<br/>spillway, earthworks and ancillary<br/>works</b> |
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| <b>Recommending Officer</b> | <b>Victor Grayson</b> |
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#### **DECISION – Prior Notification – Details Approved**

**I hereby authorise the approval of this application for the reasons set out  
in the officer's report and recommendation annexed below in respect of  
the above matter.**

Nick Hirst

***AUTHORISED OFFICER***

**Date: 23-Jun-2025**

## Officer Report

**Application number:** 2025/91013

**Site:** Slaithwaite Reservoir, Bank Gate, Slaithwaite

**Proposal:** Measures in the interest of safety under section 10 of the Reservoirs Act 1975, comprising upgraded spillway, earthworks and ancillary works. The proposed development would increase the capacity of the spillway at Slaithwaite Reservoir.

The upgraded spillway would be constructed predominantly within the footprint of the existing spillway and would involve the following works (as described in the applicant's submission):

- Refurbish upper drop shaft and culvert;
- Refurbish the concrete surface of the upper spillway and minor works to spillway walls;
- Improve the operation of the upper penstock;
- Stabilisation of any loose material on the bank sides of the existing "rocky gorge";
- Remove the existing vegetation, which has self-seeded within the "rocky gorge";
- Concrete fill of approximately 5m depth into the lower end of the "rocky gorge" and new walls on either side of the channel to contain flows;
- Existing dwarf wall to be removed and walls along the right side (looking downstream) of the spillway over the tunnel to be removed;
- New pedestrian accesses for inspection and maintenance;
- New vehicular access across the reservoir embankment for construction and ongoing operation, inspection, service and maintenance access;
- Works to infill existing tunnel under spillway channel and second drop shaft;
- New 'U' shaped channel constructed on top of existing spillway channel, widened to 5m width at upstream end and to tie in with existing spillway at downstream end (approximately 3.15m), with external visible walls to be clad with a natural stone finish;
- Existing vegetation along the top of the adjacent northeastern embankment to remain undisturbed where possible (any bank stabilisation works TBC at the application stage); and
- Potential repairs required downstream from the final culvert weir.

The applicant's submission also states that a work compound area would be required to facilitate the proposed development. This would be provided at the toe of the embankment, and would be accessed off Nabbs Lane and Holme Lane.

The proposal described above constitutes development as defined within Section 55 of the Town and Country Planning Act 1990.

### **Site description**

The application site is Slaithwaite Reservoir, off Bank Gate in Slaithwaite. The applicant has stated that the site is approximately 2.2 hectares in size and incorporates the eastern section of the reservoir including the dam, embankment, bywash, spillway and a small amount of water space at the crest. The site also includes land where a temporary site compound area is proposed.

Nearby buildings at Bank Gate Mill are Grade II listed.

### **Relevant legislation**

The applicant seeks prior approval for the proposal under Class A (development under local or private Acts or Order) of Part 18 (Miscellaneous development) of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Class A of Part 18 of Schedule 2 of the GPDO relates to “development under local or private Acts or Order”, and permits the following development:

- A. Development authorised by —*
- (a) a local or private Act of Parliament,*
  - (b) an order approved by both Houses of Parliament, or*
  - (c) an order under section 14 or 16 of the Harbours Act 1964*  
*(orders for securing harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours)*
- which designates specifically the nature of the development authorised and the land upon which it may be carried out.*

The above allowance is subject to conditions A.1 and A.2, which state:

*A.1 Development is not permitted by Class A if it consists of or includes —*

- (a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam; or*
  - (b) the formation, laying out or alteration of a means of access to any highway used by vehicular traffic,*
- unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained.*

*A.2 The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that —*

- (a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or*

*(b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.*

### **History of negotiations / amendments received**

2024/20686 – Pre-application advice request relating to works to Slaithwaite Reservoir. Advice issued 13/08/2024.

During the life of the current application, amended drawings were submitted showing a revised treatment to the coping to the spillway walls. The applicant also responded to questions from the case officer regarding the proposed spillway wall materials and dropped kerb.

### **Relevant planning history**

2024/20263 – Environmental Impact Assessment Screening Opinion request relating to measures in the interests of safety under section 10 of the Reservoirs Act 1975 comprising upgraded spillway, earthworks, and ancillary works. Decision (confirming EIA not required) issued 25/04/2024.

2025/20400 – Environmental Impact Assessment Screening Opinion request relating to measures in the interests of safety under section 10 of the Reservoirs Act 1975 comprising upgraded spillway, earthworks, and ancillary works. Pending determination.

2025/91022 – Listed building consent granted 11/06/2025 for creation of new spillway channel for Slaithwaite (Hill Top) Reservoir requiring construction of concrete retaining walls including associated engineering operations and works at Bank Gate Mill.

### **Planning policy**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

#### *Kirklees Local Plan (2019)*

The site is unallocated in the Local Plan. To the west of the dam, the waters of the reservoir are within the Green Belt.

Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure

LP19 – Strategic transport infrastructure  
LP21 – Highways and access  
LP24 – Design  
LP27 – Flood risk  
LP28 – Drainage  
LP29 – Management of water bodies  
LP30 – Biodiversity and geodiversity  
LP31 – Strategic green infrastructure network  
LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP38 – Minerals safeguarding  
LP47 – Healthy, active and safe lifestyles  
LP50 – Sport and physical activity  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP56 – Facilities for outdoor sport, outdoor recreation and cemeteries

#### *Supplementary Planning Guidance / Documents and other documents*

Relevant guidance and documents are:

- Highway Design Guide SPD (2019)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Planning Applications Climate Change Guidance (2021)
- Public Rights of Way Improvement Plan (2010)

#### *Climate change*

The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and

guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

### *National Planning Policy and Guidance*

The National Planning Policy Framework (published in December 2024 and updated February 2025) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposals. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Since March 2014 Planning Practice Guidance for England has been published online.

### **Public consultation**

There is no requirement for applications for prior approval under Class A of Part 18 of Schedule 2 of the GPDO to be put to public consultation, however full details of the application were published on the council's website.

### **Consultation responses**

*KC Highways Development Management* – Commenting at a surgery held on 04/06/2025, KC Highways Development Management commented that the dropped kerb to Holme Lane appeared acceptable. Holme Lane is not a classified road. A condition requiring details of the dropped kerb was not considered necessary, however a standard informative was recommended. The dropped kerb works would be implemented under Section 184 of the Highways Act 1980, and it would be the council's crew (rather than the applicant's) that would carry out the works.

*KC Public Rights of Way* – Public footpaths COL/141/20, 50 and 60 would be affected. Further information required regarding the reinstatement, surfacing and width of the footpaths (especially for the section from the spillway to Bank Gate), and details required of how the footpath running west adjacent to the reservoir would be incorporated into the scheme. Further information required regarding footpath closures – maximum time is six months (without application to the Secretary of State), and a minimum of nine weeks notice is required for

a Temporary Traffic Regulation Order (this is subject to a separate process and costs). KC PROW had understood works would take a maximum of seven months, however this is now put at 18 months.

### **Assessment against Class A**

The applicant considers the acts of parliament which authorised the construction and maintenance of canals to be private acts, which can be often referred to as “enabling acts”. The enabling acts are considered to authorise the construction and maintenance of the canal and associated works including reservoirs.

The applicant has also set out that the primary function of Slaithwaite Reservoir is to hold water for the provision of the Huddersfield Narrow Canal. The canal was originally authorised under the Huddersfield Narrow Canal Act 1794, to which the Canal and River Trust are the successor to the canal company originally authorised by the Act.

The Act therefore authorises the canal company to:

- *Where [the canal company] shall think it necessary and convenient for the purpose of the said navigation and also from time to time, alter repair, amend, divert, widen and extend any reservoirs.*

Officers are satisfied that the acts to which the applicant has referred meet the test under Part 18 of the GPDO such that it is the relevant part of the GPDO for determining whether the proposed development is “permitted development”.

### **Assessment against conditions A.1 and A.2**

With reference to condition A.1, the proposed development includes an alteration to parts of the existing dam, and includes an alteration to a means of access to a highway used by vehicular traffic (in this case, a dropped kerb is proposed at an existing vehicular access point on Holme Lane). The prior approval of the “appropriate authority” (in this case, the council) therefore needs to be obtained.

Condition A.2 states that the council must not refuse prior approval for the proposed development unless (a) or (b) apply. The applicant has argued that (a), which relates to possible alternative locations for the proposed development, need not be considered further by the council, as the wording of (a) excludes works to a dam. This is accepted, although – in any case – it is noted that the council could not reasonably expect the proposed development (which relates to an existing reservoir) to be carried out elsewhere. Regarding (b), consideration must be given to the design and external appearance of the proposed development, and whether it would injure the amenity of the neighbourhood. These matters are considered later in this report.

### **Assessment of material planning considerations**

The conditions of Class A of Part 18 of Schedule 2 of the GPDO limit the range of planning considerations that can be taken into account by the council when deciding whether to issue a prior approval in relation to the proposed development. Condition A.2 refers to design and external appearance, and the amenity of the neighbourhood. As condition A.1 refers to highway works, it is considered appropriate to also carry out a limited assessment in relation to highway matters.

### *Design and external appearance*

The proposed development involves the repair and replacement of existing features at Slaithwaite Reservoir. These would largely use the same materials as existing, and would be to the same designs. The proposals also include new elements and alterations, such as those proposed to the existing spillway.

At pre-application stage, officers advised that the walls of upgraded spillway should be clad in natural stone, given their visibility and proximity to adjacent listed buildings. The applicant has duly included this external material treatment in the proposed development, thus addressing this earlier concern.

This matter has already recently been considered under the parallel Listed Building Consent application ref 2025/91022. Under that consent, the following condition was imposed:

*Notwithstanding the submitted details the retaining walls of the development hereby approved shall be externally clad in natural stone which shall be laid in courses to match the existing with all mortar pointing to be finished either flush or slightly recessed and no strap or ribbon pointing and thereafter be retained.*

**Reason:** *To provide a level of mitigation in relation to the less than substantial harm identified and in the interests of visual amenity to accord with policies LP24 and LP35 of the Kirklees Local Plan and policies within Chapters 12 and 16 of the National Planning Policy Framework.*

It is recommended that the same condition be attached to the council's prior approval.

The applicant has also addressed a concern expressed at pre-application stage in relation to tree loss.

The application-stage submission confirms that the proposed development involves the removal of some trees, which are mainly category C and U trees. However, it may also involve the removal of some 'Moderate quality' B category trees and tree groups to facilitate the works. The majority of 'Moderate quality' and all the 'High quality' 'Category A' trees would be retained. Some trees within a group TPO (ref 37/91/w1) would be removed. This work includes the removal of a total of 16 trees over 75mm in diameter and the crown reduction of the remaining trees in the group. This tree removal work would be carried out under the Canal and River Trust's statutory powers.

For the retained trees, tree protection measures would be implemented.

A Tree Replanting Scheme document has been submitted. New tree planting on site is proposed as part of compensation measures for the loss on site. A ratio of 1:5 will be undertaken for any tree removed within the TPO area and 1:3 for any tree removed elsewhere on site. All replacement trees would be native and of local provenance. The replacement planting would therefore lead to a net increase in tree cover and would help to mitigate amenity impacts.

A condition regarding tree protection is recommended.

Given the location, scale / extent and nature of the proposed development, it is considered that the wider landscape would not be harmed. This includes the Green Belt, which the waters of the reservoir are within.

With the above-mentioned conditions imposed, the proposed development would cause less than substantial harm in relation to the significance of nearby heritage assets, and – with reference to paragraph 215 of the NPPF – that harm would be outweighed by the public benefits of the proposed development (namely, maintenance of public safety, and the maintenance of canal-related infrastructure that supports a canal network that provides significant leisure, health, access and biodiversity benefits to the public).

Given the above assessment, it is considered that the proposed development would comply with policies LP24 and LP35 of the Kirklees Local Plan, chapters 12 and 16 of the NPPF, and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Amenity of the neighbourhood*

With design and conservation matters considered above, other neighbourhood amenity considerations relate to the amenities of neighbouring occupants.

Given the location, scale / extent and nature of the proposed development, it is considered that the future occupants of Bank Gate Mill (which has planning permission for a residential conversion, ref 2022/92459) would not be adversely affected in relation to overshadowing, overlooking, natural light or noise. Other residential properties in the neighbourhood would similarly be unaffected.

Furthermore, given the location, scale / extent and nature of the proposed development, it is considered that the future operation of existing businesses in the surrounding area would not be adversely affected.

#### *Highway matters*

Four existing highway access points would be used during the construction phase, however the only access point where permanent changes are proposed is the gated access on Holme Lane at the south end of the existing dam. Here, a dropped kerb is proposed.

This proposal is considered acceptable. Holme Lane is not a classified road, is not heavily trafficked, and has reasonably good visibility having regard to likely vehicle speeds and the volume of traffic.

A condition requiring details of the dropped kerb is not considered necessary, however a standard informative is recommended.

The dropped kerb works would be implemented under Section 184 of the Highways Act 1980, and it would be the council's crew (rather than the applicant's) that would carry out the works.

Queries have been raised by the council's Public Rights of Way team. Those queries relating to footpath closures are not to be considered under this prior approval application. The queries relating to footpath reinstatement, surfacing and widths have been discussed with the applicant, who has stated:

*“...we are not doing any works to the public footpaths – they will remain exactly the same throughout and after the development. The only impact would be some temporary period of closure when parts of the works are taking place”.*

Given this reassurance, it is considered that a condition requiring reinstatement (in the event damage or other impacts occur) would be appropriate. This condition (condition 5) has been agreed with the applicant.

### **Other matters**

Two aspects of the proposed development are subject to “to be confirmed” caveats. These are:

- Existing vegetation along the top of the adjacent northeastern embankment to remain undisturbed where possible (any bank stabilisation works TBC at the application stage); and
- Potential repairs required downstream from the final culvert weir.

The need for, and details of, these works have not been provided by the applicant. In light of this, an appropriate condition is recommended.

Drainage and flood risk are not among the relevant planning considerations set out in conditions A.1 and A.2. It is noted, however, that the proposed development would maintain and improve the safety and function of existing water infrastructure.

Conditions have been agreed with the applicant.

### **Conclusion**

Subject to conditions, the proposed development complies with Class A of Part 18 of Schedule 2 of the GPDO.

**Recommendation:** Approve.

**Decision authorisation:** Delegated powers

**Application number:** 2025/91013

**Officer recommendation:** Grant prior approval

**Conditions and reasons:**

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and to accord with Policies LP2, LP24, LP35 of the Kirklees Local Plan and the National Planning Policy Framework.

2. Notwithstanding the submitted details, the spillway walls of the development hereby approved shall be externally clad in natural stone which shall be laid in courses to match the existing with all mortar pointing to be finished either flush or slightly recessed and no strap or ribbon pointing and thereafter be retained.

**Reason:** To provide a level of mitigation in relation to the less than substantial harm identified and in the interests of visual amenity to accord with policies LP24 and LP35 of the Kirklees Local Plan and the National Planning Policy Framework.

3. The development hereby approved shall be carried out in accordance with the tree protection measures set out in the Arboricultural Impact Assessment (P/12553, March 2025).

**Reason:** To protect trees in the interests of visual amenity and to accord with the requirements of Policies LP24 and LP33 of the Kirklees Local Plan and the National Planning Policy Framework.

4. Should the “bank stabilisation works” and/or “potential repairs required downstream from the final culvert weir” referred to in the Application for Prior Approval document (Canal and River Trust, April 2025) prove necessary, these works shall not commence until full details have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out strictly in accordance with the details so approved.

**Reason:** In the interests of visual amenity to accord with policies LP24 and LP35 of the Kirklees Local Plan and the National Planning Policy Framework.

5. Should any works forming part of the development hereby approved result in damage to or other impacts upon the surfacing and/or widths of public footpaths COL/141/20, 50 and 60, these public footpaths shall be reinstated to their pre-development condition within six weeks of the damage or other impact occurring unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and maintaining the public rights of way network to accord with policies LP21, LP24 and LP35 of the Kirklees Local Plan and the National Planning Policy Framework.

**NOTE:** Public footpaths COL/141/20, 50 and 60 are within or are adjacent to your site and must not be interfered with or obstructed, prior to, during or after development works. The council's Public Rights of Way team may be contacted by telephone 01484 221000 or by email: [publicrightsofway@kirklees.gov.uk](mailto:publicrightsofway@kirklees.gov.uk)

**NOTE:** The changes to the access within the adopted highway at Holme Lane, to provide a dropped kerb, will need to be constructed under an agreement under Section 184 of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

#### **Plans and specifications schedule:**

| <b>Plan type</b>                     | <b>Reference</b>                           | <b>Version</b> | <b>Date received</b> |
|--------------------------------------|--------------------------------------------|----------------|----------------------|
| Red line boundary plan               | P12553-JNB-XP-001-002-DR-C-0001            | Rev P04        | 28/04/2025           |
| Proposed works plan                  | P12553-ARC-00-XP-DR-CE-001                 | Rev P02        | 28/04/2025           |
| Upper access track plan and sections | P12553-ARC-00-XP-DR-CE-004                 | Rev P02        | 28/04/2025           |
| Spillway sections sheet 1 of 2       | P12553-ARC-00-XP-001-002-DR-CE-0002        | Rev P03        | 02/06/2025           |
| Spillway sections sheet 2 of 2       | P12553-ARC-00-XP-001-002-DR-CE-0003        | Rev P03        | 02/06/2025           |
| Application for Prior Approval       | Canal and River Trust, April 2025          |                | 28/04/2025           |
| Access and Lifting Report            | Bentley, 19/03/2025                        | Rev P02        | 28/04/2025           |
| Arboricultural Impact Assessment     | Canal and River Trust, P/12553, March 2025 |                | 28/04/2025           |
| Tree Replanting Scheme               |                                            |                | 28/04/2025           |
| Indicative Visualisations            | Canal and River Trust, April 2025          |                | 28/04/2025           |

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

**Report Dated:** 19/06/2025

