

**PLANNING COMMITTEE**

**Wednesday 2<sup>nd</sup> April 2008**

This application is reported to Members because the Parish Council have raised an objection.

**Case Officer - Mr Charlie Colling**

**EGGLESTON - 6/2008/0034/DM**

Construction of duck pond (retrospective) at Land to south-west of Marland Lodge, Eggleston for Mr S Haley & Mrs E Hamm (29 January 2008).

**THE SITE:**

The application site forms part of an agricultural field to the West of Marland Lodge, Eggleston. The land slopes north to south and there is a public right of way which crosses the site.

**THE PROPOSAL:**

The applicant seeks retrospective planning permission for the construction of a duck pond to the west of Marland Lodge, Eggleston.

**PLANNING HISTORY:**

No relevant planning history.

**PLANNING POLICY:**

GD1 General Development Criteria  
BENV4 Development within and/or adjoining a conservation area  
ENV1 Protection of the Countryside  
ENV3 Area of High Landscape Value

**REPRESENTATIONS:**

**Statutory and Internal Consultants:**

Public Rights of Way Officer – Public Footpath No.3, Eggleston is directly affected by this development.

If the application is approved the footpath will have to be diverted under the Town and Country Planning Act 1990, Section 257. I am aware that the applicant has already applied for this as part of their application. I would have no objection to the path being diverted, but the following points should be raised.

- The footpath width available for use should be 1.8m.

- There should be no run off or leakage from the pond onto the footpath, in order to maintain a usable surface.
- The diversion order should be completed before any further work is carried out on the site.

Eggleston Parish Council

Permission should be refused for the following reasons:

- The applicant has constructed the pond over the right of way.
- The excavation of the pond may have disturbed archaeological remains as this area is of importance being part of the medieval cultivation terraces Eggleston is noted for.
- The pond is too large and has no natural water supply or overflow provision. There is also the concern that the water in the pond will become stagnant and cause problems with smell.
- Members recommend that the applicant should be advised to consult with the Environment Agency with regard to discharge from the pond.
- Impact on character of local landscape.

### **Public Responses:**

Three letters of objection have been received from nearby properties. Concerns in summary are:

- Concerns over construction of pond.
- The fencing looks unnatural.
- Historical nature of the footpath.

### **PLANNING CONSIDERATIONS:**

Principle

The area of land associated with the duck pond would be approximately 33 metres long and 20 metres wide. The pond is set within the hillside and has used the natural terracing of the field in order to identify an area capable of such a development. The pond area has been fenced off with a timber post and rail fence. A public right of way directly crosses the site which would need to be diverted should the development be granted planning permission.

The site is an agricultural field to the West of Eggleston. To the southern and western boundaries there are hedges along with a number of trees. In terms of visibility the site is considered to be reasonably well screened by existing natural vegetation. The pond is however visible from the entrance to the footpath, leading from the road to the south of Marland Lodge.

The ponds intended use would be to accommodate the applicant's ducks and to provide a habitat which may be used by wild ducks. Work has begun on the development which currently consists of the majority of the pond having been dug, and fencing erected around this area.

Policy ENV1 advises that 'Within the countryside development will be permitted for the purposes of agriculture, rural diversification projects, forestry, nature conservation.... where there is a need on the particular site involved and where a proposal conforms with other policies in the plan. To be acceptable proposals will need to show that they

do not unreasonably harm the landscape and wildlife resources of the area'. The proposed development in this respect can be considered as being in accordance with this policy as the proposals are for the purposes of agriculture/nature conservation and the applicant has identified that they have a need for such a facility on the land, in order to accommodate their ducks and hopefully attract some wild ducks. This policy does however seek to ensure that development does not unreasonably harm the character of the landscape and wildlife resources. Having considered the siting of the proposed pond, it is considered that this would appear to be the most suitable location for such a development. The site is reasonably well screened by existing hedging and trees, and although the site would be visible from the public highway immediately adjacent to Marland Lodge it is not considered that this development would have an unacceptable affect upon the visual amenity of the area or the open countryside beyond.

The works which have already been carried out have resulted in some loss of the historical ridge and furrow landscape within this locality. Whilst it is regrettable that this has happened it is not considered feasible that this could now be meaningfully restored.

### Footpath

There is a footpath (No.3 Eggleston) which is directly affected by this development. This footpath runs from east to west across the field where the duck pond has been created. The duck pond lies directly across the line of the footpath which will therefore need to be diverted should the application be approved. The applicant has already submitted an application to divert the footpath to the District Council under 257 of the Town and Country Planning Act 1990, which is being determined on its behalf by Durham County Council. The proposed line of the footpath would be to follow the southern boundary of the site, with a minimum of a 1.8 metre wide footpath being provided between the fence defining the boundary of the field and that the fence erected by the applicant in order to enclose the pond. The length of footpath directly affected by the pond would be approximately 33 metres.

The rights of way officer has raised no objection to the diversion of the footpath subject to its width being a minimum of 1.8 metres, no leakage from the pond onto the footpath and that the diversion is carried out before any further work is carried out on site. The footpath would ultimately start and finish at the same point in the field as has always been the case, however the line of the footpath would be such that it would be diverted around the pond. It is not considered that this diversion greatly inconveniences the users of this footpath. I am aware that historically this footpath may have followed a particular line, which would now be changed, however I am not of the opinion that this is of any particular significance to the historical nature of the area.

It is therefore recommended that members consider adding an informative into the letter to the applicant, should permission be granted advising of the need to ensure this diversion is complete before any further works to the pond are undertaken.

### Concerns/Objections

Objections have been raised over the potential for leakage/overspill from the pond which may impede those using the footpath. The applicant has indicated that if planning permission is granted then an impermeable pond liner will be installed. The liner would be set approximately 20cm, above the maximum water height so that water from rain would fall within this. If the water were to rise above the natural water table, then any excess would be pumped into the beck within the garden of the applicant.

The pond will be stagnant- The applicant proposes to put oxygenating plants into the pond. The applicant indicates that they have visited a number of duck ponds and specialist advice which they have taken has indicated that all that is required is that oxygenating plants are put into the pond and that the pond is emptied once every five years. It is proposed to empty the pond into the beck which runs through the applicants land. It is therefore recommended that should permission be granted, members consider adding an informative into a letter to the applicant advising that they should contact the environment agency with regards to the precise details of this discharge. It is however considered that given the frequency the pond would be emptied and the volume of water this would involve, the proposals would have a minimal affect upon this watercourse.

The historical line of the footpath has been altered - As addressed earlier in the report the line of the footpath would need to be diverted and the applicant has already applied for this. The Rights of Way Officer has raised no objections to the proposals subject to certain conditions. With regards to the historical route of the path, the applicant has indicated that this was not followed and walkers used an alternative route similar to that proposed through the diversion. Whilst no evidence has been provided to support this, it is your officer's view that the alternative route proposed would not be significantly detrimental to the users of the footpath or the character of the area.

**RECOMMENDED: That Full Planning Permission be granted.**

1. The permission hereby granted relates only to the plans and specifications submitted with the application.

To ensure that the development is carried out in accordance with the approved plans submitted with the application.

2. Precise details of the construction of the pond, including the laying of the liner, installation of pumping equipment, planting schedule and the water level must be submitted to and agreed in writing with the Local Planning Authority, within two months from the date of this permission. The development shall then be carried out in accordance with these details.

In order to control the precise detailing of the finished development, to ensure a safe water level is maintained in the pond in accordance with policy GD1 of the Teesdale District Local Plan.

**Informatives**

The development would involve emptying the pond once every five years into a natural watercourse, along with the overflow should the pond water level become too high. You will therefore need to contact the Environment Agency to agree precise details of this.

The footpath No.3 Eggleston, which crosses the site needs to be diverted under the Town and Country Planning Act 1990, Section 257. It is understood that you have already applied for this and you should await the outcome of this before carrying out any further works on the site.

**Reason for Approval**

The decision to grant planning permission has been taken having regard to the policies and proposals in the County Durham Structure Plan and the Teesdale District Local Plan including the policies referred to below, and to all relevant material considerations, including Supplementary Planning Guidance, and the particular circumstances below:

GD1 General Development Criteria

BENV4 Development within and/or adjoining a conservation area

ENV1 Protection of the Countryside

ENV3 Area of High Landscape Value

The development would not have any significant adverse affects upon the visual amenity of the area or the amenities of occupiers of nearby residential properties. The proposed diverted route of the footpath would not unduly impede the users of the footpath and the proposals are therefore considered to be acceptable.