

TITLE: 2005/328 - ERECTION OF PANOPTICON, RECLAMATION OF DERELICT LAND AND ASSOCIATED WORKS TO FACILITATE INFORMAL RECREATIONAL USE LAND AT TOP O' SLATE & DUCKWORTH CLOUGH, HASLINGDEN

TO/ON: DEVELOPMENT CONTROL COMMITTEE - 11 OCTOBER 2005

BY: TEAM MANAGER DEVELOPMENT CONTROL

APPLICANT : ROSSENDALE BOROUGH COUNCIL

DETERMINATION EXPIRY DATE : 22 JULY 2005

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.

SITE

This application relates to two parcels of land owned by Rossendale Borough Council, having a combined area of approximately 30 hectares.

Located in the essentially open countryside rising-up to the north-east of the built-up area of Haslingden, the sites are as follows :

Top O' Slate

Once a quarry, the northern part of this site was tipped between the 1950's and 1980's. There has been little management of the tree-cover which has established here. There remains an active Waste License in respect of the southern part of this site. While there is an area of partially decomposed leaves and gully-washings, the landscape of this part of the site is dominated by large shale-heaps and exposed cliff-faces, the legacy of past quarrying operations. Although not open to the public, Top O' Slate is used informally, most notably by mountain-bikers and motor-cyclists.

Duckworth Clough

The application site excludes the Household Waste Recycling Centre (which is to remain). The area of new broadleaf tree-planting bounding it forms part of the capped and landscaped landfill site for which Lancashire County Council holds the Waste License. The dense conifer plantation to the east of this is largely impenetrable and at odds with the character of the surrounding countryside.

PROPOSAL

The Agent submitting the application says that it has been designed with the following aims :

- To reclaim substantial areas of derelict and de-graded land.
- To create a 'landmark' feature visible across a wide area, particularly from the most important highways running through the Borough.
- To facilitate informal recreational use consistent with enhancement of both the visual appearance and wildlife interest of the land.
- To encourage those visiting the land to do so on foot/bike/horse and no encouragement of visits by car.

Top O' Slate

This site has been identified as a Priority Site by REMADE (the Reclamation & Management of Derelict Land initiative funded by the North West Regional Development Agency and administered by Lancashire County Council, with the aim of restoring to a 'soft' after-use derelict, under-used and neglected sites across Lancashire).

The site is also one of six sites selected by the East Lancashire Partnership for the Panopticons Initiative, which aims to create iconic landmarks in the hills adjacent to key routes as symbols of the regeneration of this part of the county.

The landmark proposed as part of the reclamation scheme for Top O' Slate is called the Halo. It will comprise of an elliptical silver-grey structure of 2m in thickness and 18m in diameter, fabricated in steel and clad in photo-reflective perforated aluminium, held 5m clear of the ground by three tubular-steel legs of similar colour. The colour of the structure has been selected to maximise the daylight-hours it will be visible when viewed against the sky or hillside. The elliptical structure will incorporate low-intensity lighting to make a 2m wide band on its underside glow between the hours of dusk and midnight; the system of solar-panels and batteries by which the structure can generate and store the power necessary for this lighting is presently being investigated. The ellipse will have a small hole in the centre to enable anyone directly beneath to view through to the sky.

The Halo will be located towards the southern end of the site. The wider scheme of reclamation/restoration to be undertaken at the southern end of this site entailing principally :

- Provision of a 4-space car park for the disabled/cycle-stands at the eastern tip of the site, with a suitably surfaced and graded path to enable easy access up to the Halo structure.
- Construction of drystone walling and planting to break views of the proposed car park from Cribden End Lane/reduce the area of hardstanding formed to facilitate lorry access to the site for the purpose of quarrying/tipping.
- Re-profiling of slag-heaps, planting of indigenous trees/heather/heath plants, provision of paths,a picnic area and information information boards.

The northern part of the Top O' Slate site, where the existing tree-cover is greater, will be less disturbed, the works here limited to :

- Removal of abandoned cars and other debris; formation of a picnic area; selective thinning of trees to facilitate provision of paths; repairs to drystone walls fronting the highway (which, with the landowners consent, could be extended to include repair of drystone walls to the other side of the highway); information boards.

Duckworth Clough

At this site the works proposed are limited to :

- Construction of paths connecting into existing public footpaths on the site.
- Felling of some conifers on the boundaries of the site to create a softer and more sympathetic edge to the woodland.

Other Works

The Agent wishes to encourage visitors to the sites, whether residents of the borough or not, to do so on foot/bike/horse, rather than by car.

To that end :

- Works will be undertaken (subject to the Highway Authorities consent) to signpost the sites and up-grade footpaths/cycle routes/bridleways from far and near.
- No works to increase the capacity of the road network are proposed, nor provision of car parking (beyond the small car park for use by disabled people).

Consultation Responses

LCC (PLANNING)

With respect to Top O' Slate, it advises that whilst an old planning permission has a condition providing for the restoration of the southern part of the site this application provides a means of securing the restoration of the whole of the site in a far more acceptable manner. However, it does indicate that the Halo structure is not in character with this 'Enclosed Upland' Landscape Character Area, making it necessary for the Council to consider whether the visual intrusion/illumination resulting from its erection is outweighed by the other benefits of the scheme (including the aim of providing a new landmark/locally-distinctive feature).

It is generally supportive of the desire to provide for informal recreational use of both Top O' Slate and Duckworth Clough, although wishing the timing and form of the works to have full regard for the existing wildlife interest of the sites and surrounding area. It advises that : a) inappropriately timed or detailed works may affect breeding birds and other protected species; b) land adjacent to the Duckworth Clough site lies within the Cribden Moor Biological Heritage Site; & c) Top O' Slate possesses areas of heather/bilberry warranting retention/translocation.

LCC (HIGHWAYS)

The Highway Authority has no objection in principle to the proposal. However, with respect to the originally submitted scheme it made 3 points :

1. It feared a car park proposed near the Halo (said to be for the parking of cars of disabled people) would encourage the vehicles of others to travel along lanes unsuited to them.

APPLICANTS RESPONSE : the scheme has been amended so as to reduce the area of hardstanding to be provided within the site following a re-

assessment of the number of spaces needing to be provided, entry to this car park will be limited to disabled people by RADAR key, and there will be a reduction in the area of hardstanding presently existing at Cribden End Lane in which visitors may otherwise try to park.

2. There is need to more fully integrate proposed footpath/bridleway routes with the existing definitive routes/avoid their obstruction by new planting, etc.
APPLICANTS RESPONSE : The application has been duly amended.
3. It considered signs to be erected far from the site ought more appropriately to be dealt with by it under the Highway Acts rather than as part of this application.
APPLICANTS RESPONSE : The need to obtain the Highway Authorities consent for these signs is acknowledged by the agent.

ENVIRONMENT AGENCY

No objection in principle. However, it recommends a condition be imposed requiring submission and approval of details of the design of the foundation for the Halo, to ensure there is no pollution of underlying groundwater. It considers the wildlife value of the conifer plantation at Duckworth Clough could be further enhanced by selective-felling to allow light to streams within it which are presently shaded.

WILDLIFE TRUST FOR LANCASHIRE, MANCHESTER & NORTH MERSEYSIDE

It is generally supportive of the proposal. However, having regard to the advice of The Bat Conservation Trust, it recommends that a condition be imposed requiring submission and approval of details of the system of illumination to be incorporated in the Halo; whilst use of the appropriate system of illumination to create the halo could attract insects upon which certain bat species can feed, use of the wrong system could cause them more harm than good. It also advises that crushed-concrete should not be used to form paths adjacent to where heather is to be retained/proposed.

ENVIRONMENTAL HEALTH MANAGER

No objection.

Notification Responses

A petition bearing 123 names has been received, objecting to the proposal for the following reasons :

1. The money for its construction & maintenance could be better spent.
2. Overbearing affect on residents.
3. Adversely affect on property values.

Fifteen letters have been received from local residents. They object to the proposal for the following reasons :

1. The 'halo' is a waste of public money/will devalue their properties.
2. It will be a blot on the landscape (described variously as a 'fairground attraction', 'spaceship' and 'the pie in the sky') and will spoil the wild/natural state of the hillside, adding to the 'skyline' clutter of electricity pylons/TV mast.
3. This structure is so close to houses it will dominate outlook from them and spoil the fantastic views of the countryside presently enjoyed, its illumination at night adding to the intrusion/loss of privacy and will adversely affect residents health through loss of sleep.

4. The number of people drawn into the area will cause environmental damage/disturbance to wildlife, the illumination likely to attract the yobs, under-age drinkers and other anti-social elements at night.
5. The 'halo' will be a dangerous distraction to drivers and the lanes leading to it (being narrow/tortuous/poorly-surfaced/lacking footways) will become congested/dangerous.
6. Lack of parking provision near to the application sites will result in parking on Haslingden Old Road and nearby residential streets, the latter inconveniencing residents and endangering children at play.

Two owners of land near to the Top O' Slate site object on the basis that the Halo structure, and its associated illumination, will frighten their horses when riding and the additional vehicular traffic will endanger them on hitherto quiet lanes. The owner of the land immediately to the south/west of the Top O' Slate site expresses the following concerns :

1. There will be more accidents as a result of a greater volume of speeding-traffic along the lane bounding their land, cars already frequently leaving the lane and damaging the boundary walls or entering the fields at un-barriered sections.
2. Stiles on the public footpaths which cross their land are already continually being vandalised, resulting in straying animals and repair costs for them.
3. Harm may be caused to their horses by discarded litter, feeding of them, etc.

The Country Land & Business Association express the view that the Panopticon is in principle a good idea, but this is the wrong place to site it as the large quantity of traffic generated will have to make use of a single-track road and find wholly inadequate provision for parking. Furthermore, it cannot be confirmed that the decontamination works have been carried out to make the site safe for public use, nor for maintenance of the Halo structure in the long-term. To existing problems with fly-tipping will be added the dropping of litter, vandalism, etc

A Councillor has expressed the view that the project will draw a lot of visitors in cars and there is a need to ensure at least one road to the sites is improved to cater for the additional traffic. Accordingly, they consider it most appropriate for : a) the site to be sign-posted at the Blackburn Rd/Clough End traffic lights; & b) a financial contributions be sought from SITA, Harding's Waste, the Nursery School and the Developer of the recently-permitted housing scheme to enable improvement of the highway from this junction up to the household waste re-cycling centre.

Development Plan Policies

Rossendale District Local Plan (Adopted 1995)

- DS5 - Development Outside the Urban Boundary & Green Belt
- E4 - Tree Preservation
- E10 - Groundwater Protection
- C8 - Countryside Recreation
- C9 - Access to the Countryside
- C13 - Woodland & Trees

Joint Lancashire Structure Plan (Adopted 2005)

- Policy 7 - Parking
- Policy 20 - Lancashire's Landscapes
- Policy 21 - Lancashire's Natural & Man-Made Heritage

Other Material Planning Considerations

- PPS1 - Sustainable Development
- PPS7 - Rural Areas
- PPS9 - Biodiversity & Geological Conservation
- PPG13 - Transport
- PPG17 - Sport & Recreation

LCC Parking Standards

Planning Issues

The main issues to consider in dealing with this application are as follows :

- 1) Principle; 2) Landscape Impact/Wildlife Interest; 3) Neighbour Amenity; & 4) Traffic/Parking.

PRINCIPLE

To make these sites available for informal recreational use accords with the designation of the land as Countryside Areas as there essentially open and rural character is maintained. That this will require works to reclaim/restore derelict and de-graded land is a further benefit.

LANDSCAPE IMPACT / WILDLIFE INTEREST

I am satisfied that the scheme of reclamation/restoration to facilitate informal recreational use are in-keeping with the character and appearance of the area. Indeed, for the southern half the Top O' Slate site and for the Duckworth Clough site these works will bring about a positive improvement in appearance. The same can also be said in terms of the wildlife interest of these areas, so long as care is taken during the course of the works to protect areas currently of wildlife interest and to ensure that all of the land is subsequently used and maintained in a manner that strikes the right balance between recreational use and the interests of wildlife. To this end I recommend conditions to ensure :

- a) the proposed works do not proceed until full details of them have been submitted and approved;
- b) prior to completion of the works a manual is produced detailing the future maintenance regime to be followed in the interests of wildlife.
- c) one year after substantial completion of the works the manner in which the site is being used shall be recorded and a report submitted detailing the remedial measures to be taken to ensure the appropriate balance is maintained between recreational use and the wildlife interest.

The Halo structure cannot be said to accord with the character and appearance of the upland landscape of this site and its surroundings and, thus, does not accord with national and local policies designed to ensure development is in-keeping with its setting. This being the case it is necessary to consider whether the project, looked at as a whole, brings benefits in respect of other material considerations of sufficient weight to tip the balance in favour of a permission. In this regard the wish to create a 'landmark' feature can be weighed in the balance, together with the benefits referred to in the preceding paragraphs.

With such 'landmark' features (as with sculptures proposed in town centre locations) people tend to arrive at a view as to whether they love or hate any particular proposal. There is no objective way in which to assess or judge such a proposal or predict public reaction if the Halo is erected. Response to public art is essentially a

personal and emotional one. However on balance it is considered that the Halo will contribute positively as a 'landmark' feature.

In order that the system of illumination does not detract from the wildlife interest I recommend a condition to ensure submission and approval of full details of the system to be installed.

NEIGHBOUR AMENITY

I am satisfied that the proposed Halo structure is sufficiently distant from residential properties it will not cause an overbearing effect or loss of sleep for any resident. The issue of its effect on residents outlook is dealt with under Landscape Impact.

I do not consider residents concerns about Halo visitors cars parking to the front of their houses likely to be realised. Nevertheless, I consider it appropriate for a condition to be imposed requiring that six months after its substantial completion a parking/visitor survey be undertaken and a report submitted detailing the remedial measures to be taken to address any problems identified.

TRAFFIC / PARKING

The Highway Authority and I concur with the view of the Agent that cars ought not to be encouraged to visit the site by provision of car parking for general public use or works to improve the local road network. Should any problems arise in this respect they can most appropriately be addressed through the parking/visitor survey referred to in the preceding paragraph.

Summary of Reasons for Approval

Although the proposed Halo structure is not in-keeping with the character and appearance of the area, the Council is satisfied that it will be of benefit as a 'landscape' feature, and this and the other benefits of the project as a whole in terms of reclamation/restoration of derelict and de-graded land for informal recreational use are sufficient to tip the balance in favour of the proposal. Furthermore, it is satisfied that, subject to conditions, the proposal will not detract to an unacceptable extent from neighbour amenity, wildlife interest, highway safety or any other material consideration.

Recommendation

That permission be granted, subject to the conditions below :

1. The development permitted shall be begun before the expiration of three years from the date of this consent.
Reason :The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. Construction of the Halo structure shall not be commenced until such time as its foundation design has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented, unless otherwise agreed in writing by the Local Planning Authority.
Reason : To prevent the pollution of groundwater, in accordance with the advice of the Environment Agency and Policy E10 of the adopted Rossendale District Local Plan.
3. Construction of the Halo structure shall not be commenced until such time as details of the system of illumination to be installed, and means by which it will be powered, have been submitted to and approved in writing by the Local

Planning Authority. . The approved scheme shall be implemented, unless otherwise agreed in writing by the Local Planning Authority.

Reason : To prevent light pollution and detriment to wildlife, in accordance with the advice of the Wildlife Trust for Lancashire, Manchester & North Merseyside and PPS1 and PPS7.

4. No materials shall be brought onto the application sites for the purpose of re-profiling /re-grading the land unless first agreed in writing with the Local Planning Authority.

Reason : To prevent the pollution of groundwater, in accordance with the advice of the Environment Agency and Policy E10 of the adopted Rossendale District Local Plan.

5. The works hereby permitted on the application sites shall not be commenced until such time as full details of their form and materials, together with a method statement and timetable, have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance/wildlife interest of the area, in accordance with Policy 20 & 21 of the adopted Joint Lancashire Structure Plan.

6. No development shall take place until a scheme of landscaping/timetable has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The scheme shall indicate all existing trees and areas of heather/heath planting; detail any to be retained, together with measures for their protection in the course of development; indicate the types/numbers and areas of tree/shrub planting to be undertaken, their distribution and means of protection until established; and those areas to be seeded.

Reason: In the interests of the appearance/wildlife interest of the area, in accordance with Policy 20 & 21 of the adopted Joint Lancashire Structure Plan.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the agreed timetable, unless otherwise agreed in writing by the Local Planning Authority, and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance/wildlife interest of the area, in accordance with Policy 20 & 21 of the adopted Joint Lancashire Structure Plan.

8. Prior to substantial completion of the works a manual shall be produced and submitted to the Local Planning Authority detailing the future maintenance regime to be followed in respect of both of the application sites.

Reason: In the interests of the appearance/wildlife interest of the area, in accordance with Policy 20 & 21 of the adopted Joint Lancashire Structure Plan.

9. One year after substantial completion of the works the manner in which the site is being used shall be recorded and a report submitted to the Local

Planning Authority detailing the remedial measures to be taken, and a timetable for them, to ensure the appropriate balance is maintained between recreational use of the application sites and the wildlife interest

Reason: In the interests of the appearance/wildlife interest of the area, in accordance with Policy 20 & 21 of the adopted Joint Lancashire Structure Plan.

10. Six months after substantial completion of the works a parking/visitor survey shall be undertaken and a report submitted to the Local Planning Authority detailing the remedial measures to be taken to address any problems identified on the application sites or in the surrounding area.

Reason: In the interests of the appearance/wildlife interest of the area, in accordance with Policy 20 & 21 of the adopted Joint Lancashire Structure Plan.

NOTES FOR APPLICANT

Please note: The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping up or diversion of a right of way should be the subject of an Order under the appropriate Act.

Please Note : This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980 Section 184, the County Council as Highway Authority must specify the works to be carried out. Only the Highway Authority or a contractor approved by the Highway Authority can carry out these works and therefore before any such works can start, or any signs are erected on the highway, you must contact the LCC Environment Directorate, quoting the planning application number.

O = HALO

