



**DALCOUR
MACLAREN**

Application for a Certificate of Lawfulness for Proposed Use or Development

South East Water
Ardingly Reservoir Slip
May 2025



Project Details

Project Name	EP – Ardingly Reservoir Slip
Scheme Number	22007464 – Ardingly Reservoir Slip
Report Number	01

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1 Introduction

1.1 Background to the Application

- 1.1.1 Dalcour Maclaren (DM) has been commissioned by South East Water Limited (SEW) to submit an application for a Certificate of Lawfulness for Proposed Use or Development (CLOPUD) for the proposed installation a 13m long PU32 sheet piled wall, 15m deep piles and gravel bags. This together with re-profiling the existing slope will act as a permanent solution to an earlier slip in the reservoir wall. The sheet piles will be installed using the Giken method, which confirms all system equipment are self-supported by holding existing installed piles with no risk of overturning.
- 1.1.2 This supporting statement forms part of an application to Mid Sussex District Council for a CLOPUD to confirm permitted development rights afforded to SEW as a statutory undertaker for water supply for the works outlined in this statement. SEW has been in discussion with the LPA in relation to the issue that has arisen at Ardingly Reservoir, holding discussions with officers in relation to the nature of the issue, the temporary solution adopted and the proposed permanent solution, which is described in this supporting statement.
- 1.1.3 As a statutory undertaker relating to the supply of water, the SEW is able to utilise permitted development under Part 13, Class A (Water or hydraulic power undertakings) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

1.2 Need for the Development

- 1.2.1 A slip at the present site, saw a part of the existing wall collapse into the reservoir, leaving an unstable bank. A temporary solution has been put in place to ensure public safety in the interim period, however SEW are obliged to implement a permanent solution to ensure long term safe operations in the area. SEW propose to provide a permanent solution consisting of the installation of a 13m long PU32 sheet piled wall, 15m deep piles and gravel bags on the bank of the reservoir
- 1.2.2 The wall forms a formal hard edge to the reservoir and is in regular use linked to the water sports activities undertaken in this part of the water body, linked to the presence of the slipways and associated infrastructure allowing easy access into the water.
- 1.2.3 The proposed development will allow for a permanent and safe solution to the slipped reservoir wall and replace the current temporary solution. The newly installed anchored sheet pile wall will offer a secure and sustainable solution to this issue, ensuring that the reservoir can be utilised as previously intended. This is required before any significant risk is posed to uses of the reservoir.
- 1.2.4 The proposal also includes the construction of a new pedestrian slipway providing access to the water edge. This is required in order to ensure that ongoing maintenance works can be carried out effectively once the repair works have been completed, thus ensuring that the reservoir infrastructure can be kept in good order.

1.3 South East Water Limited

1.3.1 Under the Water Industry Act 1991, SEW as a statutory water undertaker has a duty to:

“Develop and maintain an efficient and economic supply of water within its area and to ensure that all such arrangements have been made -

- a) For providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and*
- b) For maintaining, improving and extending the water undertaker ’ s water mains and other pipes as necessary for securing that the undertaker is and continues to meet its obligations under this part. ”*

“Where its supply system is used for the purpose of supplying water to any premises for domestic or food production purposes -

- a) To ensure that any water so supplied is wholesome at the time of supply ” .*

1.3.2 SEW must, under the above act, provide a wholesome supply of water and maintain the water supply system to ensure it continues to meet its statutory obligations. As part of the statutory responsibility to provide water, SEW must ensure that the wider environment is protected by undertaking this activity in a sustainable manner.

1.3.3 The proposed development will therefore allow SEW to continue to provide a safe and wholesome supply of water to the local area in a sustainable manner in accordance with its statutory duty and commitment to the Drinking Water Inspectorate (DWI).

1.4 Site Location and Description

1.4.1 The site is located on the southern bank of Ardingly Reservoir, West Sussex, RH17 6SQ (NGR: TQ 33302 28856).

1.4.2 The Site is bounded by:

- Ardingly Reservoir to the north east.
- Ardingly Activity Centre to the south west, which consists of hard standing.

1.4.3 The new infrastructure will replace existing failed retaining wall and will consist of reinforced piles and a sheet piled wall, to provide a permanent solution.



Figure 1: Location of proposed site (ESRI, 2024)

- 1.4.4 A site constraints check was undertaken to identify any potential designations which may impact upon the site, and to agree to methods of mitigation for these.
- 1.4.5 The site is located 1.5km from Wakehurst and Chidingly Woods Site of Special Scientific Interest (SSSI), and within the associated SSSI impact Risk Zone (IRZ). Additionally, the north eastern part of the works is located within the Ardingly Reservoir local nature reserve. While this is not of national significance, it is understood that this may hold local value. While this does not impact upon SEW permitted development rights, an ecological survey is being undertaken at the site prior to the commencement of the works, to understand and mitigate potential impacts.
- 1.4.6 The site is also within the High Weald National Landscape and National Character Area. However, due to the permitted development nature of the works, this is not seen as a constraint. Additionally, the works are contained within the reservoir, and therefore will not visually disrupt the area.
- 1.4.7 The site is also partially within and in proximity to ancient woodland. However, as advised by Natural England and the Forestry Commission (source 'Ancient woodland, ancient trees and veteran trees: advice for making planning decisions' available on the Gov.uk website), a 15m buffer will be kept between the works and the designation to ensure that a sufficient root protection area is accommodated by proposals.

1.5 Planning permissions

- 1.5.1 Planning permission AR/25/75 for the creation of the reservoir, was granted in 1975. The description of development was '*1. Ardingly Reservoir comprising: (i) Ardingly Dam, (ii) Outlet Works, (iii) River Ouse-Weir pumping station. 2. Details of Hill embankment. 3. Details of Road.*' The application boundary associated with the reference planning permission consented the slipways and retaining wall subject of this CLOPUD application.
- 1.5.2 The purpose of the 1975 planning permission was to create the infrastructure necessary to enable the creation of the reservoir for the purpose of the supply of drinking water across its catchment.
- 1.5.3 As shown by figure 2 below - the area in general has been subject of several planning permissions since the 1975 permission described above, with consents ranging from recreational activities on the water and surrounding area to improvements to associated infrastructure such as car parking.

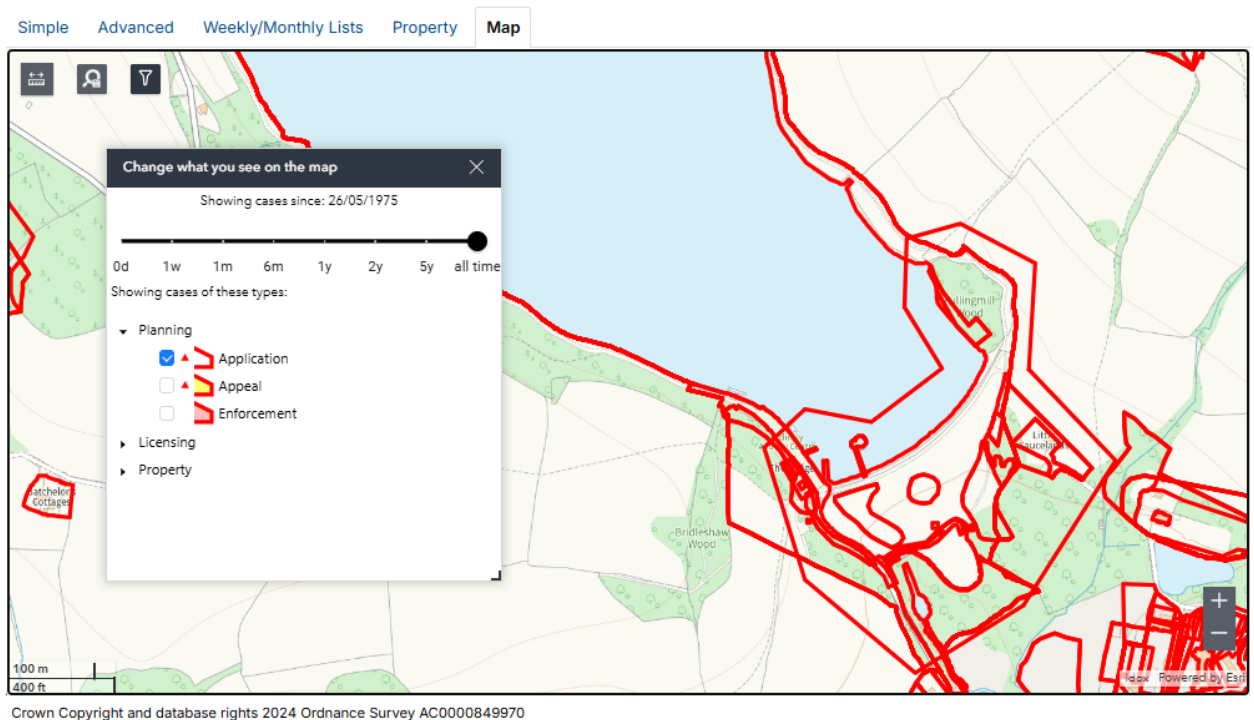


Figure 2 – Planning history

2 Proposed Development

2.1 Description of the Proposed Development

- 2.1.1 The proposed development, includes the installation of a 13m long PU32 sheet piled wall, 15m long piles and gravel bags. This together with re-profiling the existing slope will act as a permanent solution to an earlier slip in the reservoir wall.
- 2.1.2 It is also proposed to construct a new slipway which runs parallel with the reservoir wall, to provide access to the reservoir. The access will be for pedestrian purposes and will allow access by foot to the waters edge for maintenance purposes.
- 2.1.3 The works are shown on drawings:
- Phase 2 Stabilisation Piling Works General Arrangement Drawing (ARD-ATK-01-XX-DR-CE-1023)
 - Phase 2 Stabilisation Piling Works Cross Sections (ARD-ATK-01-XX-DR-CE-1024)
 - Bored Mid-Slope Piles Reinforcement Details – (ARD-ATK-01-XX-DR-CE-1026)
 - Elevation of Sheet Pile Wall (ARD-ATK-01-XX-DR-CE-1028)
 - Slipway Details (ARD-ATK-01-XX-DR-CE-1031)
- 2.1.4 The works will be undertaken in five stages:
- Stage 1: Installation of Mid-Slope Piles
 - Stage 2: Installation of Sheet Piles
 - Stage 3: Installation of Anchors
 - Stage 4: Slope Re-Grade
 - Stage 5: Pile Cuts Down
- 2.1.5 It is understood that there will be no significant width required for a working area, and no significant earthworks. Some reprofiling of land will be required, however this considered to be minor in scale and necessary to ensure existing and proposed levels blend together successfully
- 2.1.6 The Giken method is considered an environmentally considerate method of installation, which involves the pressing-in of piles into the ground with a specialist silent piling rig. The solution installs pre-formed steel piles using static loading without noise and vibration.
- 2.1.7 Temporary working platforms are not required for this work.

3 The Town and Country Planning (General Permitted Development) Order 2015

3.1 Environmental Impact Assessment Screening

- 3.1.1 The proposed development is not considered to be Schedule 1 or 2 development under the Town and Country Planning Environmental Impact Assessment ('EIA') Regulations 2017.
- 3.1.2 As the proposed development does not constitute Schedule 1 or 2 development, EIA screening is not deemed to be required and permitted development rights would apply.

3.2 Permitted Development

- 3.2.1 The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) detail types of development which do not require a formal application to be submitted to the relevant authority as planning permission is already granted by the Order. The specific types of development are detailed in Schedule 2 of the Order.
- 3.2.2 Whilst some types of development specified in Schedule 2 are relevant for any person or body undertaking the development, some parts of Schedule 2 are only relevant to statutory bodies. Part 13 relates solely to water and sewage undertakers. SEW are a statutory undertaken in this regard.
- 3.2.3 There are several subclause of Part 13 that the development could be carried out under. Part 13 Class A(a) of the General Permitted Development Order (GPDO) states that the following is classed as permitted development:

“(a) development not above ground level required in connection with the supply of water or for conserving, redistributing or augmenting water resources, or for the conveyance of water treatment sludge ”

- 3.2.4 The proposed development will not protrude above existing ground levels, both within the water and that of the original wall, along with the associated hard standing located behind the original wall. As shown by the submitted drawings, once installed the new solution has been designed to sit flush with adjacent land levels.
- 3.2.5 The works are essential for the repair and ongoing maintenance of a reservoir which operates in connection with the supply of water and as such the works complies with the requirements of subclause a.
- 3.2.6 There are a number of exceptions and exemptions to this Part which are listed under Class A.1 and as such it is necessary to consider these in determining whether the development can be delivered under permitted development:

“Development is not permitted by Class A if -

- a) in the case of any Class A(a) development, it would include the construction of a reservoir.*

- 3.2.7 The development isn't for the construction of a reservoir, merely works to repair a part of an existing one. The proposal doesn't conflict with subclause listed above.
- 3.2.8 As mentioned above, it is proposed that elements of the proposed works can be undertaken under several subclauses of Part 13. In this vein, the cutting down of intact units, installation of reinforced pipes and sheet piled wall, and reinstatement of slipped land behind the wall, can be carried out under Part 13 Class A(b):
- "(b) development in, on or under any watercourse and required in connection with the improvement or maintenance of that watercourse"*
- 3.2.9 For clarity, with regards to the definition set out at class A(b), Whilst it is recognised that the reservoir may not be a watercourse itself, the Reservoirs Act 1975 recognises that a reservoir may form part of a watercourse. Therefore, this order still applies.
- 3.2.10 Finally, consideration of operational land status is also relevant to the scheme.
- 3.2.11 The definition of operational land is written under Section 263 of the Town and Country Planning Act 1990 (hereafter referred to as the 'TCPA') as *"Land which is used for the purpose of carrying out on their undertaking; and land in which an interest is held for that purpose"*
- 3.2.12 Section 264 of the TCPA states that land is not treated as operational if: *"The interest was acquired by them on or after 6th December 1968; or It was held by them immediately before that date, but the circumstances were then such the land did not fall to be treated as operational land for the purposes of the 1962 Act"*.
- 3.2.13 In some instances, certain sites could be considered operational as per the provision under subclause 3(a) of Section 264 of the TCPA which states if *"There is, or at some time has been, in force with respect to as specific planning permission for its development"*.
- 3.2.14 As identified in the planning permission section of this report, permission AR/25/75 consented the construction of the reservoir infrastructure which included the features that are the subject of this CLOPUD application. As such, whilst the reservoir didn't come into operation until after the 1968 date listed at section 264 of the TCPA, the presence of the 1975 permission means that the site can be considered to be located on operational land under subsection 3(a) of Section 264 of the TCPA.
- 3.2.15 With this in mind, Class A(g) of Part 13 to schedule 2 of the GPDO consents:
- 'any other development in, on, over or under operational land other than the provision of a building but including the extension or alteration of a building.'*
- 3.2.16 For the reasons set out above, it is contended that the proposed works can be delivered under several subclasses of Class A Part 13 to schedule 2 of the GPDO and as such the proposed works are considered permitted development and can be undertaken without obtaining further planning consent.

4 Conclusion

- 4.1.1 The proposed development consists of the demolition of failed wall units at Ardingly Reservoir, and the replacement of this with an anchored sheet pile wall.
- 4.1.2 As part of the repair works, it is proposed to construct a new pedestrian slipway to provide access to the waters edge for maintenance purposes.
- 4.1.3 The proposed development is critical infrastructure and is required to provide a permanent solution to the previously slipped wall at Ardingly Reservoir.
- 4.1.4 It is submitted that the proposed development can be considered permitted development under Part 13 Class A(a), (b) and (g) of the GPDO.
- 4.1.5 As such, an application for a CLOPUD has been submitted by SEW to the Mid Sussex District Council and we respectfully request that the permitted development nature of the proposed development is formally confirmed.

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