

Planning Committee: 30 March 2022

Item Number: 5

Application No: [W 21 / 0802](#)

Town/Parish Council: Lapworth

Case Officer:

Helena Obremski

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Registration Date: 19/06/21

Expiry Date: 14/08/21

Land north of Bakers Lane, Knowle, Solihull, B93 8PT

Construction of new canalside moorings at Helmsley Court Farm, Bakers Lane, Knowle with associated access and parking arrangements for the provision of car parking (part-retrospective application) FOR Mr Flaherty

The application is being present to Planning Committee due to objections from Lapworth Parish Council and Chadwick End Parish Council and the number of objections received from members of the public.

RECOMMENDATION

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

The application seeks retrospective planning permission for the construction of new canal side moorings at Helmsley Court Farm, Bakers Lane.

The proposal includes the construction of new canalside moorings with associated access and parking arrangements for the provision of 6 car parking spaces.

The applicant has confirmed that the moorings would not be for residential purposes and that there would be no overnight occupation of any boats moored at the site. Effectively, the site serves as a storage facility, primarily for over-wintering of canal boats.

For the avoidance of doubt, the application differs from that granted in 2010 by way of the location of the moorings (approximately 34 metres further south from the existing canal bridge), a slight extension in the length of the proposed moorings (approximately 6 metres) and revised access and parking arrangements. Works associated with the current application have been carried out since the granting of permission since 2010 and as such the application is considered to be retrospective.

The wider application site has planning permission for a forestry business.

THE SITE AND ITS LOCATION

The application site contains a parcel of land located to the north side of Bakers Lane, fronting onto the Grand Union Canal. Vehicular access is provided to the

south off Bakers Lane, with pedestrian access provided across the existing canal bridge via a footpath link.

The application site is located within land designated as Green Belt, located between Knowle and Chadwick End.

PLANNING HISTORY

W/10/0135: Construction of new canal side moorings and spreading of spoil onto adjoining land. Granted at Planning Committee 26th April 2011.

W/19/1831: Application for a Certificate of Lawfulness to confirm that a lawful material commencement has been made on the development subject of planning permission reference W/10/0135 (*Construction of new canal side moorings and spreading of spoil onto adjoining land*) in compliance with Condition 1 and all other pre-commencement conditions were discharged. Granted.

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- DS18 - Green Belt
- BE3 - Amenity
- TR1 - Access and Choice
- BE1 - Layout and Design
- TR2 - Traffic generation
- TR3 - Parking
- FW2 - Sustainable Urban Drainage
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- Guidance Documents
- Parking Standards (Supplementary Planning Document- June 2018)

SUMMARY OF REPRESENTATIONS

Lapworth Parish Council: Objection in respect of the impact on the Green Belt and breach of previous planning permission.

Chadwick End Parish Council: Objection in respect of the principle of development, impact on the Green Belt and car parking provision and management.

Canal and River Trust: No objection, subject to a condition relating to a landscaping plan including planting, an external lighting scheme and arrangements for waste disposal. No navigational safety concerns.

WCC Highways: No objection, subject to conditions.

WCC Ecology: No objection, subject to conditions securing a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP).

Health & Community Protection: No objection.

CPRE: Objection on grounds of inappropriate development in the Green Belt, harm to rural character of the area, harm to amenity of local residents, together with concerns over lack of objections from Highways Authority and Environmental Health Officer.

Public Response: 37 objections received raising the following concerns:

- additional traffic flow on rural lane; impact on highway and pedestrian safety; potholes will be worsened; the number of vehicles accessing the site will not be managed; nearby roads cannot cope with additional traffic
- inadequate parking for the number of moorings
- loss of outlook
- loss of habitat and hedgerow and detrimental impact on protected species
- impact on flood risk
- incorrect information submitted relating to the access to the site
- detrimental impact on the openness of the Green Belt
- original works to the site were never completed and the site is an eyesore / out of keeping with its setting
- detrimental impact on neighbouring properties in terms of additional noise and disturbance
- boats are being permanently moored outside
- buildings have been constructed on site
- construction works could impact on structure of nearby properties
- lack of information regarding waste disposal
- illegal moorings on the site
- piling of spoil adjacent to and over the public footpath has caused flooding
- insufficient information provided to assess the application
- littering
- impact on trees

1 Neutral: Why does the council permit organisations like IMA Transport Planning to publish misleading information in support of planning applications? The recent report on the parking facility off Bakers Lane claims that the entrance is 220 metres from the Bakers Lane canal bridge. This is a massive overstatement (ten fold?). I have no particular interest in the marina development, but I am concerned about the efficiency of Warwick District Council's planning system.

ASSESSMENT

The following matters are considered relevant to the assessment of the application:

- Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which would

outweigh the harm by reason of inappropriateness and any other harm identified

- Design and impact on Character and Appearance of the Area
- Impact on Residential Amenity
- Parking and Highway Safety
- Landscape and Ecology
- Drainage
- Waste
- Other Matters

Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which would outweigh the harm by reason of inappropriateness and any other harm identified

Lapworth Parish Council, Chadwick End Parish Council, the CPRE and members of the public have objected to the proposal in respect of the principle of development, and impacts on the Green Belt. Concern is expressed regarding the cumulative impacts of the scheme and other development within the wider site on the Green Belt.

Since approval of the original moorings application in 2010, there has been a change in national and local plan policies regarding development within the Green Belt.

Policy DS18 of the local plan states that the Council will apply Green Belt policy in accordance with government guidance as set out in national policy.

Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. Inappropriate development within the Green Belt is harmful by definition, and should not be approved unless very special circumstances exist.

Paragraph 150 includes a list of types of development which are considered to be appropriate within the Green Belt, including engineering operations, providing that they preserve its openness and do not conflict with the purposes of including land within it. This development constitutes an engineering operation as there are no buildings to be erected as part of the proposal.

The development itself would not harm the Green Belt, given that it relates to the excavation of land i.e. the development does not visually reduce openness. However, it is noted that the excavated material has been deposited next to the application site (on other land owned by the applicant) in order to facilitate the development. Under the previous application for the moorings, a condition was implemented for details of the retention and restitution of the top soil over the area of spoil deposit. Whilst details were provided, the restitution is yet to take place, so a condition must be imposed for further details on this matter and to ensure that this is completed in a timely manner. This will ensure that the openness of the Green Belt is retained. At present, the soil deposits have been formed in large mounds, which somewhat impacts on openness.

The car parking would now be located within the site boundary, rather than offsite. Given that the development is to serve as an over-wintering facility for the storage

of canal boats, it is unlikely to attract significant volumes of traffic. Moreover, the proposed parking area is already identified as a parking area associated with the existing forestry business within the wider site, therefore there would be no additional parking areas created. It is also nearby to an existing forestry building, which consolidates associated impacts on the Green Belt to one part of the wider site.

With the above considerations in mind, it is concluded that the development represents an engineering operation, which would preserve the openness of the Green Belt (subject to conditions), and it would also not conflict with any of the purposes of including the land within it, given the nature of development and its location.

It should also be noted that the boats which would be moored at the site could be broadly considered as appropriate development under para. 149 of the NPPF, as facilities associated with outdoor recreation.

Moreover, a certificate of lawfulness application confirmed that the moorings planning permission, W/10/0135, had been lawfully implemented, which is a material consideration. There are only modest differences between that permission and the current application, none of which are considered to have a material impact on openness in comparison to the previous application.

In reference to comments regarding the cumulative impacts of existing development on the area, this is not directly relevant to the assessment of this application; Officers consider that the proposal represents appropriate development within the Green Belt, thus it is not necessary to consider the wider cumulative impacts in terms of the impact of the development on the Green Belt. Other previous applications have also been judged on their acceptability in terms of appropriateness in the Green Belt.

Overall, therefore, the development is considered to be acceptable in principle and in accordance with the NPPF and Policy DS18 of the Local Plan.

Design and impact on Character and Appearance of the Area

Policy BE1 of the Warwick District Local Plan seeks to ensure development proposals are of a high quality and contribute positively to the character of the local area.

The CPRE and neighbours have objected to the proposal on the basis that because the moorings have been relocated, they are more visible within the wider landscape, thus having a harmful impact on landscape character.

In respect of the application, much of the visual impact relates to the existing area of spoil in relation to works associated with the scheme. This is to be dispersed over the neighbouring site in a more appropriate manner. A condition for a landscaping scheme would ensure that the proposal is dealt with appropriately.

The proposed scheme overall, subject to associated conditions for landscaping and planting, is considered to be appropriate in design for the proposed use. The proposal associated with this site does not consist of any additional buildings that would infringe on the open character of the site and surrounding local area. As such, the impact of the proposal is considered to be acceptable on the character of the local area, subject to conditions which control the wider landscaping of the site.

In regard to the proposed car parking area, this is to be an informal parking area and therefore, visually, is considered to have a minimal and acceptable impact on the character of the local area. It is also noted that this was the area marked out for the car parking associated with the forestry business, so there would be no visual changes as a result of locating the proposed parking area in this position.

The proposals therefore, subject to conditions, are considered to be in accordance with the principles of Policy BE1 of the Local Plan.

Impact on Residential Amenity

Policy BE3 of the Warwick District Local Plan seeks to ensure development proposals do not result in an adverse impact on the amenity of neighbouring residential dwellings or significantly impact the amenity of existing and future occupiers of the development site.

The CPRE and neighbours have raised concerns regarding the impact of the development on neighbouring amenity. Members of the public raise concerns regarding loss of outlook and light pollution.

In respect of the development, it is acknowledged that the proposals will add a further use to the wider use of the site as a forestry business, though it is important that this application should be considered on its own merits. The Environmental Health Officer has been consulted on the proposals and has raised no objection in respect of an increase in noise or air quality issues as a result of the proposed development.

As such, it is considered that the proposed development, in respect of noise and air pollution, would not adversely impact users of surrounding facilities. Moreover, as the development does not include the erection of any buildings, it also would not materially impact on light, privacy or outlook, notably when considering the implemented permission for the previous moorings application.

Overall, therefore, the proposed development is considered to comply with Policy BE3 of the Local Plan.

Parking and Highway Safety

Policies TR1 and TR2 seek to ensure development proposals provide safe, suitable and attractive access routes for pedestrians, cyclists and other users of motor vehicles. These policies also seek to ensure proposals do not result in an increase in traffic generation that would result in highway safety concerns. Policy TR3 of the Warwick Local Plan seeks to ensure parking provision associated with development proposals is reflective of the local area, and is in accordance with the Parking Standards SPD.

The Parish Council have raised concerns regarding car parking provision and management. Members of the public raise concerns regarding additional traffic flow on rural lanes which cannot cope with the demands; impacts of the development on highway and pedestrian safety; that potholes will be worsened; that the number of vehicles accessing the site will not be managed; and, that there is inadequate parking for the number of moorings.

With regard to the proposed access and parking arrangements, differing from the scheme approved in 2010, the proposal subject of this application seeks to provide

allocated, informal parking arrangements, rather than relying on third party provision within the wider network (previously located entirely within The Black Boy public house car park).

WCC Highways requested information regarding the extent to which the development would intensify the use of the access with the public highway. The applicant has confirmed that:

- All access to the site will be securely limited by way of a security fob or similar security arrangement such as to prohibit unauthorised access other than by those legitimately attending the mooring or in connection with the forestry business.
- The car park will be linked to the moorings by a pedestrian foot path only and it will not be possible to deliver boats to the moorings by road.

WCC Highways have assessed the proposals and note that the access to the site is existing and that incidence of personal injury collisions involving the use of the access or the public highway in the vicinity of the access is not apparent from records since 1990. Data also shows low car speeds along this section of Bakers Lane.

They conclude that whilst the proposal is likely to somewhat intensify the use of the access, the limited on-site parking provision and associated car park management, means that the intensification in use would not be to an extent that would lead to a severe and unacceptable detriment to highway safety. The Highways Authority also note Officers' decision to limit the occupation of the boats at the site in reaching their conclusions on the proposal.

In terms of the level of parking provision, the applicant initially proposed that 13 spaces for the moorings was appropriate. WCC Highways queried the basis for this level of parking, given that there are 20 moorings, and requested information on the trip generation to the site, parking space utilisation and turnover, and how the parking area would be managed.

The applicant provided a transport note which highlights that the moorings are specifically for non-residential use: that is the owners of the boats will not be using either the boat or the mooring as their primary residence. The note details that there is comparatively little information available on traffic generation of moorings, and that which features in TRICS relates to mooring sites with significantly more boats moored and with other facilities also present such as day boat hire, shop, chandlery, café and thus more likely to generate either visits from non-owners or extra visits by boat owners. There is virtually no formal data for mooring sites such as this, with 20 boats and no extra on-site facilities.

The transport note explains that economic data on the use of private leisure boats indicates that on average a boat owner will use the boat for holidays for 2-4 weeks of the year (during which their car will normally be at the moorings) and that they make up to 16 other visits to the boat to undertake small maintenance jobs – larger jobs require the boat to be taken by canal to a specialist marina or go on short day trips. Thus, a boat owner will typically be parked on site for between 30 and 44 days a year, or 9-12% of the time. Even allowing for the fact that these visits will be concentrated in the summer months the typical boat owner only has a vehicle at the mooring on one quarter of the available days, or to put it another

way, on average, even in summer, only 25% of boat owners are on site at any one time. This average would suggest the allocation of 5 spaces for 20 moorings is adequate.

Given that the site is located within the Green Belt and a large parking area to accommodate 13 spaces would materially impact on the Green Belt unnecessarily, the car parking area is now proposed to accommodate 5 spaces associated with the moorings and 1 space associated with the existing forestry business.

Swept path analysis have also been provided at the request of the Highways Authority to show that vehicles associated with the forestry business and the moorings will be able to leave the site in a forward gear.

Given the evidence available, WCC Highways have concluded that the proposed parking arrangements would be acceptable and sufficient for the purposes of the development. They have recommended conditions which require that the car parking management measures are implemented prior to occupation of the site and that the car park is laid out prior to occupation of the site.

It is therefore considered that the proposed development would have an acceptable impact on highway safety and that the development provides adequate parking at the site. The development is considered to be in accordance with Local Plan policies TR1, TR2 and TR3.

Landscape and Ecology

Policy NE2 of the Local Plan seeks to protect designated biodiversity assets and protected species, ensuring they are not adversely impacted by development proposals.

Members of the public have objected to the proposal on the basis of loss of habitat and hedgerow, and detrimental impact on protected species. Concern has also been raised regarding loss of trees at the site.

The County Ecologist has not objected to the application but has requested a Construction Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP) be secured by condition due to the context of the application site. These long term plans have also been proposed due to the retrospective nature of the scheme, of which it is noted that there is an existing large spoil pile dominating the site.

Given the context of the application site, it is considered imperative that any proposed scheme incorporate high quality landscaping and planting. A scheme is to be secured by condition to manage the spoil pile, as well as to include planting in order to ensure that the development does not have a negative impact on the character of the local area, or the openness of the Green Belt. It is also noted that the Canal and River Trust have requested a landscaping plan.

In terms of tree losses. Looking at historic Google Earth images, the majority of tree removal appears to be adjacent to the site, within the land allocated for the forestry business. There may have been some tree loss to the north of the site in order to facilitate the development, but it must be noted that these trees were not protected by a TPO, so could have been removed without permission in any event.

Overall therefore, subject to securing the conditions, the proposed development is considered to be in accordance with Policies NE2 and NE4 of the Local Plan.

Drainage

Policy FW2 of the Local Plan seeks to ensure development proposals provide suitable sustainable drainage methods.

It is acknowledged that there is an existing concern regarding the spoil pile causing surface water runoff associated with the scheme. It is considered appropriate that a condition securing the management of this pile, both in relation to drainage and landscaping, be secured to any planning permission. A management plan for this is considered to satisfy the requirements of Policy FW2 of the Local Plan.

The proposed development therefore, subject to relevant conditions, is considered to comply with Policy FW2 of the Local Plan.

Waste

Members of the public object on the grounds of a lack of information regarding waste disposal and increased littering.

The proposed development consists of non-residential moorings and as such it is unlikely that owners will generate any large levels of waste on site, with it expected that this be taken with them. Indeed the terms of using such a mooring will specify the need for individuals to behave responsibly in this regard. The fact that many of the moorings will be individually owned will help to police any such activity. It is therefore considered that overall, the proposal is unlikely to result in a significant increase in the generation of waste on site.

The Canal and River Trust suggested that a condition should be imposed to control how waste is stored and removed from the site. However, for the aforementioned reasons, it is not considered necessary for the purposes of the development.

Other Matters

A Councillor brought Officers' attention to Building Regulations requirements for new buildings, and access for the Fire Service to the site. However, Building Regulations requirements are not a material planning consideration and notwithstanding this, canal boats are not subject to the same Building Regulations requirements as new buildings.

The Parish Councils and members of the public have raised concerns regarding the developer being in breach of the previous planning permission for the moorings. This is not materially relevant to the assessment of this application, which seeks to regularise the site in any event.

The Canal and River Trust have requested a condition to secure the details of any lighting to be installed at the site, which has been added.

The CPRE raise concerns regarding land contamination from sewage and other chemical effluent. However, these concerns reference other development across the wider site, and Officers have no reason to believe that the storage of canal boats would lead to improper disposal of waste or chemicals. In any event, this is

something which would be monitored by the Canal and River Trust, who have not objected to the application.

Members of the public have raised concerns that boats are being permanently "illegally" moored outside. However, Officers did not see evidence of boats being moored within the application site boundary and this would be something which would be controlled by boat licences issued and monitored by the Canal and River Trust. Notwithstanding this, if boats were to be moored and used for residential accommodation within the application site, this would be in breach of condition and this would be for the Council's Planning Enforcement team to investigate.

Members of the public raise concerns regarding buildings which have been constructed at the site. Officers saw no evidence during the site visit that buildings had been constructed within the red line site boundary.

Members of the public state that construction works could impact on structure of nearby properties. However, this is not a material planning consideration. Notwithstanding this, it is also noted that the majority of the works have now been completed in any event.

Members of the public suggest that insufficient and inaccurate information has been provided to assess the application. Officers however disagree with this assertion and that the application has been appropriately assessed and additional information obtained where required.

Summary

The development is proposed as an over-wintering storage facility for canal boats, with no residential occupation of the boats. If the boats were to be used as residential accommodation, this would be contrary to Local Plan policy H1 which directs new housing. Moreover, the absence of an objection from WCC Highways is in part based on the boats not being used for residential accommodation. It is therefore necessary to add a condition which limits their use for the purposes of the development.

In conclusion, for the aforementioned reasons the development is considered to comply with relevant local and national policies and therefore the proposal is recommended for approval.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan submitted on 16th December 2021 and approved drawing(s) 26280D-5 and MANOEUVERING PLAN-U-TURN IN REV A. submitted on 26th April 2021 and drawing IMA-19-194 TR02 submitted on 16th February 2022 and the specification contained therein. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 2 No further development than already commenced and recorded by the local planning authority or use of the site shall be carried out until a Construction and Environmental Management Plan has been submitted to and approved in writing by the District Planning Authority. In discharging this condition, the local planning authority expect to see details concerning pre-commencement checks for protected species (*detail as appropriate, i.e. badgers, bats, breeding birds and otter*) and appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed Construction and Environmental Management Plan shall thereafter be implemented in full. **Reason:** To ensure that protected species are not harmed by the development, in accordance with the National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Policies NE2 and NE3 of the Warwick District Local Plan 2011-2029.
- 3 No further development than already commenced and recorded by the local planning authority nor use of the site shall be carried out until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the District Planning Authority. The plan should include details of planting and maintenance of all new planting. Details of species used and sourcing of plants should be included. The plan should also include details of habitat enhancement/creation measures and management, such as native species planting, wildflower grassland creation, woodland and hedgerow creation/enhancement, and provision of habitat for protected and notable species (including location, number and type of bat and bird boxes, location of log piles). Such approved measures shall thereafter be implemented in full. **REASON:** To ensure a net biodiversity gain in accordance with NPPF and to ensure that the proposed development has an acceptable impact on the character and appearance of the locality, including the setting of the canal, in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 4 No further development nor use of the site shall be carried out until details of the arrangements for the retention and restitution of the top soil over the area of spoil deposit, including details of surface water drainage works have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON :** To protect the openness of the Green Belt and ensure that surface water drainage is adequately dealt with, in accordance with Policies DS18 and FW2 of the Local Plan.
- 5 The development hereby permitted shall not be brought into use unless and until the car parking and manoeuvring areas indicated on the approved drawing IMA-19-194 TR02 submitted on 16th February 2022, have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **Reason:** To ensure adequate off-street car parking and servicing facilities in the interests of both highway safety and visual / residential amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.

- 6 The car park hereby permitted shall not be brought into use unless and until a car park access control and management system has been implemented to: (a) prohibit unauthorised access other than by those legitimately attending the mooring or in connection with the forestry business; (b) manage parking demand and (c) prohibit access by unsuitable vehicles, in accordance with details that shall have been submitted to agreed in writing by the Local Planning Authority. The development shall only be operated in strict accordance with the approved details. **Reason:** To ensure safe and controlled access to the site in the interests of both highway safety and visual / residential amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.
- 7 The car parking area hereby permitted shall not created unless and until samples of the materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. **Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 8 No lighting or illumination shall be installed or operated unless and until details of such measures (including details of hours of operation) have been submitted to and approved in writing by the Local Planning Authority and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details. **Reason:** To ensure that any lighting is designed and operated so as not to detrimentally affect the amenities of the occupiers of nearby properties and the canal in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 9 The boats moored in the facility hereby permitted shall not be occupied overnight and shall not be used for residential accommodation. **REASON :** To protect the character of the Green Belt and to ensure a sustainable form of development, in accordance with Policies DS18 and H1 of the Local Plan.
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