

**Glebe Farm Boddington Road Claydon Banbury  
OX17 1TD****Case Officer:** Shona King**Applicant:** W A Adams Partnership**Proposal:** Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake - re-submission of 18/00904/F**Ward:** Cropredy, Sibfords And Wroxton**Councillors:** Cllr Phil Chapman, Cllr George Reynolds and Cllr Douglas Webb**Reason for Referral:** Major development**Expiry Date:** 24 December 2020**Committee Date:** 14 January 2021

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**EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION****RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS****Proposal**

The proposal is to create a marina with associated facilities and earthworks. There is an adjacent lake proposed to be used as an irrigation reservoir. The marina would provide mooring for 192 boats for recreational purposes and no residential moorings are proposed.

**Consultations**

The following consultees have raised **objections** to the application:

- Claydon with Clattercote Parish Council, CDC Conservation

The following consultees have raised **no objections** to the application:

- CDC Landscape Services, CDC Ecology, CDC Environmental Protection, CDC Economic Growth, Natural England, OCC Highways, Northants County Council Highways, South Northants Council, Canal and River Trust, HS2, CDC Arboriculture, OCC Archaeology, Thames Valley Police

The following consultees are **in support** of the application:

- CDC Strategic Housing

67 letters of objection have been received and no letters of support.

**Planning Policy and Constraints**

The application site lies within the open countryside and within the setting of the Oxford Canal Conservation Area. A small part of the site along its northern boundary lies within Flood Zones 2 and 3. To the north of the site lies the North Claydon Disused Railway Local Wildlife Site (LWS). The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan(s) and other relevant guidance as listed in detail at Section 8 of the report.

## **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- Need/Demand for a marina
- Highways/Access
- Visual and landscape impact
- Heritage impact
- Impact on the Canal as a tourist and leisure asset and green transport route
- Ecology and biodiversity Impact
- Drainage and flooding
- Economic and social implications
- Impact on residential amenity
- Other relevant planning matters

The report considers the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

### **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site lies within open countryside to the north of Claydon and to the north of the Oxford Canal. Its northern boundary runs along a dismantled railway, its western boundary along Boddington Road, from where vehicular access will be taken, and its southern boundary alongside the Oxford Canal. A watercourse runs parallel with the northern site boundary. The extent of the application site area amounts to just under 18 hectares (17.79ha).
- 1.2. The land forms part of a larger mixed-use farming operation of around 580ha (grass and arable) which is farmed by the applicants. The application site is currently in arable use and sits in a 'bowl' which is slightly lower than the canal.
- 1.3. The line of HS2 is proposed to run to the north east of the site; approximately 1-1.5km away. At its eastern corner the site lies adjacent to the district boundary with South Northamptonshire.
- 1.4. There is an existing house adjacent to the canal and owned by the applicants (excluded from the application site) and neighbouring sporadic residential properties further north and west of Boddington Road. There are also residential moorings further west along the canal.

### **2. CONSTRAINTS**

- 2.1. The dismantled railway to the north is a Local Wildlife Site (LWS). A public right of way (PROW) lies to the east of the site. The canal towpath is also a PROW. The Canal is a designated Conservation Area and part of the northern extent of the site lies within Flood Zone 2/3. A watercourse (known as Wormleighton Brook) runs parallel to the site's northern boundary.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The proposal is to create a marina with associated facilities and earthworks. There is an adjacent lake proposed to be used as an irrigation reservoir. The marina would provide mooring for 192 boats for recreational purposes and there will be no residential moorings. In addition to the basin, moorings and lake the proposals include;

- A facilities building providing office and chandlery, clubhouse, showers, toilets, Elsan disposal point and laundry, store and workshop and manager's accommodation and office.
- Car parking spaces for 142 vehicles arranged in groups around the marina's perimeter.
- New vehicular access from Boddington Road with internal access roads and footpaths.
- New pedestrian towpath bridge over the marina entrance continuing the PROW.
- Yard area with wet dock/maintenance bay for pump out, refuelling and light maintenance.
- Various embankments from cut and fill

3.2. The marina would be somewhat organic in form with groups of berths separated by landscaped 'spits' of land and groups of no more than 16 boats. A large wildlife embankment would extend as a promontory to its eastern end. However, due to existing ground levels the proposal does involve extensive earthworks in order to accommodate the marina at the adjacent canal water level, and to create its dam. The result would be extensive embankments rising up from Boddington Road and the northern site boundary in particular. As an indication, existing grounds levels at Boddington Road are around 113.000 AOD at its lowest point, with the embankment rising to 118.000 AOD at its highest on this western end. The canal and marina water level would be set at 115.000 AOD.

3.3. The marina would be circled by an access road (surfaced in local stone) with loading/unloading points to the bottom of the embankments, with a footpath circling it along the top of the embankments. The facilities building would be at its western end to provide surveillance over the canal access point for security purposes.

3.4. An entrance for boats would be provided from the canal into the marina. A new footbridge would be provided to continue the canal towpath across the marina entrance.

3.5. The application is accompanied by landscaping proposals which show wildflower/grass edges to the marina leading into shrub and native tree planting.

3.6. The facilities building has been re-designed to replicate a converted agricultural barn and has a GIA of 363sqm. It is finished with timber cladding and local stone under a natural slate roof. All external joinery would be timber.

3.7. The applicants have put forward a number of points in support of the application including:

- The marina would provide a valuable recreational resource on the Oxford Canal, one of the most popular canals for tourism and boating.

- The proposal would create more facilities and choice for boaters wishing to visit the region and cruise the canal.
- HS2 is likely to have a negative impact on tourism and recreation. A positive development such as the marina will help to offset the negative impact.
- The proposal would provide an essential source of non-agricultural income on a farming operation severely impacted by HS2 (118 acres of land for the construction of HS2 for up to 10 years; a line that will bisect the farm).
- The proposal would provide resilience for the farming business in the face of challenges arising from Brexit and TB in cattle. The lake will provide irrigation for crops that are not dependant on EU subsidies.

They have also provided what they term a 'sequential test' considering the suitability of alternative locations for a marina 'within or adjacent to' a settlement. All information is supplied in the applicant's submission which is available on the Council's website.

#### **4. RELEVANT PLANNING HISTORY**

4.1. The following planning history is considered relevant to the current proposal:

16/00082/SO – Screening opinion for proposed marina development – not EIA development

18/00041/SO – Screening Opinion to 18/00904/F - Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake – not EIA development

18/00904/F - Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake – withdrawn prior to Planning Committee

#### **5. PRE-APPLICATION DISCUSSIONS**

5.1. No pre-application discussions have taken place with regard to this proposal

#### **6. RESPONSE TO PUBLICITY**

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 December 2020**, although comments received after this date and before finalising this report have also been taken into account. The comments raised by third parties are summarised below.

6.2. In total, 67 letters of objection received (including from Cropredy Marina, Fenny Marina (and a solicitor acting on their behalf) and Banbury Sailing Club). No letters of support have been received. The issues received in representation are summarised as follows:

##### Planning Policy

- Contrary to development plan policies
- Contrary to NPPF in relation to diversification

### Highway safety and road infrastructure

- Safety of road users
- Increased traffic
- Lack of footways and passing places
- Narrow roads
- Poor repair of roads
- Claydon used as a 'rat run'
- Proposed traffic routing will be ignored – construction and when operational
- Access for emergency services
- Additional access into site not required

### Location

- Unsustainable location
- Lack of public transport in area
- Need to assess all alternative sites

### Need and impact on canal

- Already other marinas in area
- Vacancies at other marinas
- No commercial demand for an additional marina in the area
- Capacity on the canal and in locks
- Water shortages in canal - additional marina will add to this
- Impact on wider area – water levels in Boddington Reservoir as it is used to top up the canal
- State of repair of the towpath – additional marina will worsen this

### Impact on wider area

- Additional risk of flooding in wider area

### Local community

- No benefit to local community
- No local amenities/services to support additional people
- Disturbance to local residents
- No increase in support for local services e.g. doctors' surgery, schools
- Doubles population of Claydon
- Impact on house prices
- Combined impact of HS2 and marina development on local community

### Pollution

- Light pollution
- Impact on dark skies
- Noise during construction
- Noise once development completed
- Impact of HS2 already on serenity of canal – marina will add to harm
- Increased water pollution

### Proposal

- Design of the clubhouse
- Visually harmful creation of embankments/bunds/raising of ground levels
- Adverse impact on views from Boddington Road and Claydon village
- Drawings inaccurate and lacking detail and clarity
- Impact on heritage asset – Oxford Canal is a Conservation Area
- Impact on setting and history of Claydon

- Inappropriate scale of the development
- Impact on wildlife and natural environment
- Sewage discharge/lack of mains sewers
- Need clarification of terms – mooring place and berth. Mooring place could result in several berths
- Enforcement of non-residential status
- Short cut to residential development
- Concerns raised previously not addressed
- Objections to the previous applications should be taken into consideration
- Members need to visit the site
- Decision should be delayed due to coronavirus restrictions to allow time to comment.

6.3. In addition to the above, the owner of Fenny Marina has objected, as follows:

1. Mooring Surplus Cropredy Marina currently hosts 249 moorings, which have many vacancies, with another 100 moorings due to open in January 2021. Another 50 berths in School Lane, Cropredy, are currently under construction as well - reference no.:11/01069/F. Fenny Marina currently hosts 100 berths, which have not been full since Cropredy opened. Now another 192 berths are being applied for in the same area. Within an 8 miles radius, should this application be passed, mooring would have gone from being 100 moorings to 692, in a space of 5 years. This would create a saturation of moorings in the area that already can't be filled, should the new site be passed. However, the lower South Oxford Canal is completely devoid of any sizable Offline Marinas, due to a surplus of moorings already in existence.

2. There is a more suitable site in Kidlington (photograph no.1), which would be more practical than this application, due to it being further South, the level of the land is better to hold a basin without the construction of manmade bunds, and its roads are easier to access. This would make far more sense, than putting a Marina that requires massive Civil Engineering to create, in our already saturated area.

3. Social and Environmental Impact - Any views of the fields would be lost to the village and its community due to the new site needing to rise 8m above the brook, 3m on the field to level with the canal, and 4.5m above Boddington road. Once buildings are built on top of the 8m bunds which would add another 6.5m, the site will rise to a total of 14.5m/47.6 ft higher than it currently is! The owners of Glebe farm seem to be more interested in constructing what they want in order to make money, disregarding the natural state of the area, and what would benefit the community. This new Marina would only detract from the natural beauty of the area. The Oxford canal is a conservation area, and this application would only create a negative impact on the environment. The negative environmental impact from this colossal construction would be enormous. I.e. Pollution from the diesel engines, huge concrete pads which is very environmentally damaging, the huge gravel trucks that will have to be driven to site, considering there is a surplus of moorings, why should the environment pay such a huge price for something that will only affect it in a negative manner?

4. As the marina would be closed to the public there would be no benefit to the village of Claydon, only causing negative issues such as: 4.1 Noise pollution - More people during the day, traffic horns due to Congestion over the narrow bridge which already is a hazard due to HGV's not reading signs, to not use these roads, then having to reverse these huge trucks a mile to turn back, negotiating two blind bends, which could quite easily cause a major accident requiring the trucks to blow their horns as a means of avoiding danger to anyone. There is also to be noise pollution from the maintenance and repair of boats. Even noise from small electrical hand

held tools, carry hundreds of meters across the water, such as grinders, orbital sanders and drills. Grit blasters (used for cleaning hulls) by their very nature are excessively noisy, and are regularly used for the maintenance on a narrowboat hulls. 4.2 Light pollution - due to the height of the new site (14.5m/47.6ft) even low level lighting, would be seen from a far distance. 4.3 Heavy traffic on the already bad roads, which are full of potholes are a huge concern to the locals. 4.4 More weight on the medical facilities - surgeries are already at full capacity in both Fenny Compton and Cropredy. Who would facilitate medical treatment should a boater get ill?

5. Apparently, the OCC have imposed an undertaking of 10,000.00 worth of piling works along the Canal bank, if the Marina application is approved. This in real terms would mean that approximately 17m worth of piling would be done! A drop in the ocean for what is needed.

6. Water levels - The Fenny Compton summit has suffered from lack of water in the peak seasons, since Cropredy Marina opened. The lack of water usually results in navigation restrictions for boaters, this year being particularly bad allowing boaters only to navigate for no more than 6 hours per day, due to water shortages. Each year only seems to get worse, due to longer dryer summers.

7. The Governing body of the Canal System, Canal and River Trust, had a subsidiary (British Waterways Marinas Ltd), who have recently deemed it fit to sell all 18 of their marinas, the largest Marina operator in the UK, to secure long-term revenue from a more reliable source. If there is such demand for Offline Narrowboat Moorings, why would they do this? Why did they offer such heavy discounts to fill their Marinas whilst they were trading? Therefore, with regards to the above issues, we cannot see the need for this application to be approved.

The Fenny Marina Owner has also provided a supplemental note, mapping and annotated comments against the applicant's alternative site analysis. These documents can all be viewed in full on the Council's website.

- 6.4. In summary, it is claimed that the proposal is fundamentally at odds with the development plan and the national planning policy framework and that there are no material planning considerations that outweigh this so permission must be refused. Any benefits are of limited weight falling a long way short of overcoming the fundamental policy conflicts; specifically, Policy ESD16 of the adopted Local Plan which requires new facilities for canal users to be located within or immediately adjacent to settlements, but also SLE1, SLE2 and SLE3 and to an extent ESD1.
- 6.5 It is further claimed that the proposal does not protect, enhance or conserve the iconic heritage asset of the canal or intrinsically beautiful open countryside; is a speculative scheme with no evidence of demand, no public benefit, and is in an unsustainable location; there will be a significant and irreversible impact and the cumulative effect cannot be anything less than adverse, particularly given the advent of HS2; the search area in the FRA is limited and a flawed analysis; all alternative sites along the canal should be assessed and the applicant's search area and assessment is flawed; surface water drainage is not properly addressed; enforcement of occupancy is difficult in the long-term; viability will be a struggle except over an extremely long-term basis; the claims of financial benefit are unjustified; financial and personal circumstances are irrelevant and the marina could be sold.

- 6.5. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. CLAYDON WITH CLATTERCOTE PARISH COUNCIL: **Objects** on the following grounds:

- 7.3. The proposed development would create a significant increase in general traffic volume on the local network. The Parish Council are concerned about the impact this would have on the safety in the village which already have issues with large vehicles attempting to drive through the village and getting stuck. On the Fenny Compton Road large vehicles ignore the weight limit on the railway bridge which has resulted in damage to the bridge. These issues have been raised numerous times with the County and District Councillors and they are looking into the different options to try to alleviate this. All five routes into and out of Claydon are narrow, twisty, have constrictions or narrow or hump-back bridges. Clearly adding such a large development to the area would be counterproductive.

- 7.4. The road between Claydon and the proposed marina site is so narrow it is difficult for cyclists to pass cars travelling in the opposite direction and there are two blind bends. There are no official passing places. There is an area that has been created over time by vehicles having to pull over to the left before the bridge when leaving the village to allow enough room for vehicles coming into the village over the bridge to pass. This 'passing place' is regularly used by fishermen as a parking space therefore is not available as a passing space for most of the year.

- 7.5. Although we hope that the application will not be approved, if it is approved we believe the following will be required to remedy the problems caused to the local roads:

*1. That the Boddington Road would be properly surveyed, its structure analysed and its capacity examined and repaired and/or reconstructed where necessary to take the up-to-date predicted usage by all forms of traffic during and after construction for a period of five years.*

*2. That the route of the construction traffic through the applicants' farm be appraised as to its suitability as the permanent route of all transport and other traffic to and from the marina, thus making sure that conflicts with pedestrians and vehicles on the Boddington Road are avoided and that Claydon is not on the exit route from the marina.*

*3. If that is not agreed by the applicants, that safe routes then will be provided for pedestrians and cyclists. The applicant also will ensure that all marina residents and travellers will give priority, and give way, to pedestrians and cyclists on the Boddington Road.*

*4. That all routes into and through Claydon will be inspected for their suitability for the passage of whatever vehicles will be used to construct and supply and maintain the marina. Where unsuitable, the applicants will ensure that vehicle sizes will be modified to ensure no risk of damage, etc. to people or property will occur. Where*



*this is not possible, or damage or injury occurs, relevant compensation will be payable firstly to the Parish Council or then as relevant. Where amendments to the roads within Claydon or a structure, property or service is unavoidably altered, compensation will be sought to carry out any necessary works, etc. The applicant will therefore carry public liability insurance as agreed with the local authority.*

*5. The entrance at Springfield Farm shown in the picture immediately below should be the main entrance to the marina site.*

7.6. The area of this application is roughly  $\frac{3}{4}$  the size of the existing village. We believe this would be considerable overdevelopment and unsustainable development in this rural setting. Due to the height of the proposed development and associated planting/bunds the landscape would be greatly changed and will take away some of the pleasant views currently enjoyed by parishioners and visitors to the area.

7.7. There is already a large Marina nearby in Cropredy. Cropredy Marina are currently extending from 249 bays to 347 and they have 130 vacancies. There is also a Marina nearby in Fenny Compton and they have not been full since the Cropredy Marina was opened so we do not believe there is a need/demand for further moorings in this area.

7.8. The parish council cannot see any benefit to the community, particularly as the application states that the public will not be allowed access to the marina. If the application is approved we believe that the following conditions should be included to provide some small benefit to the parishioners:

*1. That the applicants and any subsequent owners of the farm and marina in their entirety will agree to free public access to the marina by residents of Claydon. They will also confirm compliance to this free access in the future by the owners and any subsequent owners of the marina, its buildings, facilities, etc., and that any security requirements made for the marina residents, employees, etc. do not affect the rights of the people of Claydon when visiting the site.*

*2. That the proposed footpath that is to connect with PROW 170/6/20 will be maintained in perpetuity for use by local walkers, etc. and by villagers from Claydon.*

*3. Complete funding for a village hall in the village with suitable facilities for disabled access which the village currently lacks.*

7.9. The proposal is detrimental to the setting, character and appearance of the canal conservation area. Claydon is currently a very rural village with no street lighting. There will of course be a need for lighting at the proposed marina which will create light pollution and will dramatically change the character of the area. Also, with the lack of street lighting in Claydon and there being only one footpath in the village, the additional traffic will increase the danger posed to parishioners walking in the village as in most places they have to walk on grass verges or on the road which is particularly dangerous at night time. Should the application be approved we ask that the following be included as a condition:

*1. That all lighting will be designed to ensure that the dark night sky of this area is not affected and that all lighting that is not required for safety will be extinguished by a time agreed with the local authority, appropriate to the relevant season.*

7.10. The Parish Council does not believe that the drawings provide sufficient clarity in relation to levels, contours, layout and elevations.

- 7.11. The Parish Council does not believe that the estimates in relation to waste water are realistic.
- 7.12. If the package treatment plant (PTP) is allowed to go ahead there appears to be nothing in place to prevent additional deterioration of Wormleighton Brook. The Environment Agency has classed the brook as 'poor' partly due to elevated phosphate which is partly caused by suspected sewage discharge. None of the regulatory checks on the PTP are associated with phosphorous levels, thereby giving the applicant licence to pollute Wormleighton Brook even further. The facilities provided at the clubhouse have the potential to produce waste water far in excess of that estimated by the applicant. In order to allow for this eventuality, the site should be on mains sewage.
- 7.13. The Parish Council objects to the industrialisation of work in the dry dock in a conservation area. Policy ESD 16 states: *"The length of the Oxford Canal through Cherwell District is a designated Conservation Area and proposals which would be detrimental to its character or appearance will not be permitted."* *"Other than appropriately located small scale parks and picnic facilities new facilities for canal users should be located within or immediately adjacent to settlements."*
- 7.14. **ASTON LE WALLS PARISH COUNCIL** (adjoining parish in SNC) raised concerns at the time of the previous application.

#### OTHER CONSULTEES

- 7.15. **OCC HIGHWAYS: No objections** subject to conditions (Construction Traffic Management Plan), Section 106 contributions (£10,000 for footpath improvement works) and an obligation to enter into a Section 278 agreement for highway improvements.
- 7.16. Section 106 contributions - An agreement will be required under Section 106 of the Town and County Planning Act 1990 to mitigate the developments local highway impact under Section 278 of the Highways Act 1980 to enable completion of off-site highway improvements. This includes identifying places within highway to provide at least passing places along Boddington Road.
- 7.17. Section 278 Highway Works: An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works along Boddington Road by provision of about three passing bays in suitable locations within Oxfordshire County Council jurisdiction. This is secured by means of S106 restriction not to implement development (or occasionally other trigger point) until S278 agreement has been entered into. The trigger by which time S278 works are to be completed shall also be included in the S106 agreement.
- 7.18. Detailed comments –
- 7.19. Access: The proposed site access would be taken off Boddington Road. The access detail is illustrated by Drawing No: **ADAMCM-1-1-005 Rev A** shown to benefit from 101m and 82m visibility splays to the north and south respectively along Boddington Road. The splays are considered suitable for 40mph design speed to the north and 35mph to the south.
- 7.20. A 10m wide access mouth, with a 10m kerbing radius would lead to a gate set back by about 30m is suitable for HGV access or a few waiting vehicles without hindering movement on the highway.

- 7.21. Vehicular and pedestrian access to the berths would be provided by a new road that would run adjacent to the marina banks, curving around the whole of the marina basin.
- 7.22. Notwithstanding the above, it is acknowledged that Boddington Road being the strategic access to the wider network from Banbury Road is not without constraints such as width of carriageway, winding nature and dilapidated surfacing. The above factors exacerbated by the site being remote draws attention to safety along the route.
- 7.23. In order to improve accessibility to the site discussions between the OCC and the applicant agreed that it is reasonable to provide at least three passing places at suitable locations along Boddington Road (within Oxfordshire County's jurisdiction). As such, the applicant will identify areas along Boddington Road for localised widening north of the site that would ensure that safe passage of vehicles in opposite directions can be achieved. This will be subject to a S278 agreement of the Highways Act 1980 secured through a S106 obligations of the same Highways Act.
- 7.24. Parking: The Road Traffic Generation and Car Parking Requirements of Marinas Briefing Note (November 2008) issued by British Waterways indicates that during peak times (1pm to 4pm Sunday afternoon) a 100 boat marina would require 64 parking spaces for the whole marina. Using this ratio, a 192 berth marina would require approximately 123 parking spaces. In light of this, the proposed number of parking spaces at the marina is in excess of what is considered as sufficient to accommodate the parking demand generated by a facility of this size.
- 7.25. Parking for vehicles would be available at numerous points on the access road surrounding the basin.
- 7.26. Traffic Impact: The application proposes a development of up to 192 narrow boats. This would include a clubhouse building and ancillary facilities with parking for 142 vehicles.
- 7.27. The proposed development is aimed at boaters with their vehicles and not envisaged to generate any HGV's as part of the development traffic but operational only such as weekly refuse collections and during construction.
- 7.28. Data extracted from TRICS database on marinas possessing similar characteristics such as this one show that they are busiest during bank holiday weekends, generating about one vehicle every 3 minutes during the busiest hour. It is not expected for such a development to generate significant movements during the local network peak hours. Although this would still be additional movements on the network, in view of the nature of development and location, this is not likely to result in a significant detriment to highway safety and/or traffic flow.
- 7.29. Para 5.15 of the Transport Statement asserts that in view of Boddington Road being lightly trafficked and because the predicted traffic from the site shall not have an impact on local junctions, no mitigation measures are required. The applicant should be reminded that because of the constraints along Boddington Road, mitigation measures need to be put in place in order that safe passage of vehicles is provided for.
- 7.30. It is understood that construction vehicles would be limited to those required in the process of spoil excavation in order to create a basin. The excavated spoil on-site is intended to be used for the construction of the Marina. Therefore, construction traffic would be limited to bringing in earth excavating and digging plant at the start and

end of the build and those that would occasionally bring in materials for the clubhouse and car parking/yard areas.

- 7.31. Acknowledgement is made of the applicant's willingness to enter into a routeing agreement that will require the construction vehicles to arrive and eventually leave via Springfield Farms, the adjacent land to the north of the site. This is illustrated on drawing ref: **AdamCM-1-5-006 (Transport Routing Plan)**. This would ensure that the construction related traffic avoids the use of Boddington Road but rather utilise access to Springfield Farm which is under the applicant's ownership. This is acceptable and should be clearly stated as part of the routeing structure in the Construction Traffic Management Plan.
- 7.32. The proposed marina would have little impact upon Oxfordshire County Council roads, although it is requested that should permission be granted the Authority has sight of any routeing agreement.
- 7.33. Public Rights of Way: The proposed footbridge should be constructed to DMRB standards, or to Canal and River Trust (C&RT) public towpath standard. This structure must be maintainable by the applicant or C&RT and OCC accepts no liability for its construction, public liability or future maintenance. The footpath/towpath will need to be closed to enable construction and a temporary closure needs to be applied for from OCC. Note that there is normally a 12 week lead time for this. It is expected that the footpath/towpath will be protected from plant damage and repaired to same or higher standard after the works have been completed.
- 7.34. The applicant should fund improvements for the footpath to Claydon to enable visitors/residents to gain access. A sum of £10k is considered appropriate for spot surface, furniture (stile to gate replacement) and vegetation management works. Other than this the PROW standard measures must apply, i.e. temporary obstructions, route alterations, vehicle access (construction), vehicle access (occupation), gates/rights of way, improvements to routes.
- 7.35. **LEAD LOCAL FLOOD AUTHORITY (OCC): No objection** subject to conditions (full drainage strategy) and EA approval. Key issues: The proposals also require Environment Agency approval. Treatment of runoff from Service area before discharge to Marina needs to be confirmed.
- 7.36. The submitted drainage strategy in the EAS Flood Risk Assessment addresses the main concerns that were raised previously by the LLFA. The proposals also require approval from the Environment Agency.
- 7.37. Treatment of runoff from any trafficked areas before they discharge to the marina may need to be confirmed through detailed design. A water quality assessment should be provided in line with the SuDS Manual C753 to demonstrate how water quality requirements are being met through the design.
- 7.38. **LANDSCAPE (CDC): No objections.** I agree with the conclusion of the LVIA Addendum. I look forward to detailed hard and soft landscaping for the amended scheme (tree pit details and root protection zones to be clarified).
- 7.39. **CANAL AND RIVER TRUST: No objections.** No comment on need. Sufficient water resource is available. Potential for adverse impacts on the infrastructure of the canal in terms of stability, drainage, pollution must be mitigated. No objections in terms of heritage or the character and appearance of the waterway corridor. No objections to the marina entrance and proposed towpath bridge subject to conditions for the final detailed design of the bridge including details on maintenance /

management. No objections in terms of biodiversity of the waterway corridor subject to conditions for landscaping, maintenance and management regimes for the landscaping, a Construction and Environmental Management Plan, lighting.

7.40. **CONSERVATION (CDC): Objects:** on the grounds of the proposals' impact on the significance of the Oxford Canal Conservation Area and conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1. Comments as follows:

7.41. The proposed plans are not changed in terms of heritage impact from the previous proposals submitted in 2018. Therefore, the comments and observations are not notably different from the previous consultation response provided.

7.42. The main consideration is the impact developing a marina in this location will have on the character of the area and as a consequence the canal conservation area in this location. The proposed marina will cover a substantial area of land which is currently a predominantly agricultural landscape, providing a rural setting for the conservation area. This rural setting is highlighted as enhancing the conservation area in the Oxford Canal Conservation Area Appraisal. Overall, the cumulative impact of the buildings, hardstanding and marina itself will result in an intrusion into the landscape and the character of this section of the oxford canal will be notably altered.

The development is considered to result in less than substantial harm to the significance of the conservation area; this harm should be weighed against the public benefits in line with paragraph 196 of the NPPF.

The new pedestrian bridge over the canal and the entrance to the marina would also significantly alter the experience of the canal at this location; however, it is possible that the impact of this could be mitigated with an appropriate design and suitable treatment of the area.

The listed buildings in the local area are located at such a distance from the proposed development site that the proposal would not harm their significance through change to their setting.

7.43. **ENVIRONMENT AGENCY:** No objections subject to conditions, for (1) development shall be carried out in accordance with the submitted flood risk assessment (ref 1319/2019 Rev B dated 26/07/2019) and the Hydraulic Modelling Report 2420 Rev C August 2020 and following mitigation measures it details, (2) No development shall take place until a scheme for the provision, protection and management of a 10 metre wide ecological buffer zone alongside the Wormleighton Brook.

7.44. Without these conditions we would object to the proposal due to its adverse impact on the environment.

7.45. Re Condition 1, Hydraulic modelling undertaken by the applicant has been used to determine the pre and post development flood risk. We have reviewed the model and can confirm it is acceptable as a basis to inform the flood risk assessment. The model indicates that the site would be at risk of flooding during a 1% annual probability flood event with allowances for climate change. The submitted details confirm that no buildings will be located, and no land raising will occur within the area at risk of flooding. Therefore there will be no increased flood risk as a result of this development.

7.46. Re Condition 2, Biodiversity Development that encroaches on watercourses and riparian corridors can have a potentially severe impact on their ecological value. Networks of undeveloped buffer zones might also help wildlife adapt to climate

change and will help restore watercourses to a more natural state as required by the river basin management plan. The proposed development will therefore be acceptable if a planning condition is included requiring a scheme to be agreed to protect and enhance a 10 metre wide ecological buffer zone along the Wormleighton Brook

7.47. **ENVIRONMENTAL PROTECTION (CDC): No objections**

7.48. **NATURAL ENGLAND: No comments** to make

7.49. **SOUTH NORTHANTS COUNCIL: No comments** to make

7.50. **CLLR GEORGE REYNOLDS (in his capacity as County Councillor concerning flood and traffic matters):**

7.51. This will be a major development in a rural area in low lying land next to the canal. It will be essential despite the virus restrictions and the previous application that a site visit is made to assess the highway network in the area. It will be seen that the site is accessed by a minor rural road containing a humpback bridge and another bridge that has been scheduled for major repair for a number of years.

7.52. It is my opinion that no traffic should access the site from Claydon due to the narrowness of the road and the bridge let alone the rural roads that access Claydon itself. It is absolutely essential that no works traffic uses the Claydon access as I believe irreparable damage will be done to the road.

7.53. I also understand that there will be HS2 works in the vicinity that may affect the highway network.

7.54. As flood authority OCC need to ensure that any development does not increase the flood risk for the surrounding areas.

7.55. **ECONOMIC DEVELOPMENT (CDC)** supported the previous application 18/00704/F

7.56. **ARBORICULTURE (CDC)** had no objections to the proposals at the time of the previous application ref. above.

7.57. **CROPREDY SURGERY** objected to the previous application ref. above

7.58. **BANBURY SAILING CLUB** based at Boddington Reservoir objected to the previous application ref. above

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE3 – Supporting Tourism Growth
- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDS)
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- EDS16 – The Oxford Canal
- ESD17 – Green Infrastructure

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C5 –Protection of ecological value
- C8 – Sporadic development in the open countryside
- C23 – Retention of features contributing to the character and appearance of a conservation area
- C28 – Layout, design and external appearance of new development
- C29 – Appearance of development adjacent the Oxford Canal
- TR7 –Minor Roads
- TR10 – HGVs
- TR11 – Oxford Canal
- ENV1- Pollution Control
- ENV7 – Water Quality

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

## 9. APPRAISAL

### 9.1. The key issues for consideration in this case are:

- Principle of development
- Need/Demand for a marina
- Highways/Access
- Visual and landscape impact
- Heritage impact
- Impact on the Canal as a tourist and leisure asset and green transport route
- Ecology and biodiversity Impact

- Drainage and flooding
- Economic and social implications
- Impact on residential amenity
- Other relevant planning matters

### Principle of Development

#### *Policy Context*

- 9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF (2019) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.
- 9.3. Para 83 of the NPPF 'Supporting a prosperous rural economy' states that planning policies and decisions should enable both the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside. Planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 9.4. Para 103 of the NPPF states that the planning system should actively manage patterns of growth and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Para 108 states that appropriate opportunities to promote sustainable transport modes should be taken up.
- 9.5. The NPPF also provides policies concerning the historic and natural environments, promoting sustainable transport, building a strong and competitive economy and meeting the challenge of climate change and flooding. Section 16 'conserving and enhancing the historic environment' is of relevance, particularly para 196 and weighing less than substantial harm against public benefits.
- 9.6. The Development Plan comprises the Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996').
- 9.7. Policy PSD1 of the CLP 2015 reflects the Government's policy commitment to securing sustainable development. Para A.29 of the CLP 2015 makes clear that this is about positive growth, making economic, environmental and social progress for this and future generations.
- 9.8. The Council's vision as expressed in the CLP 2015 (page 28) includes plans to develop a vibrant, diverse and sustainable economy; to support a stronger, sustainable rural economy that is diverse and not reliant entirely on agriculture and to cherish and protect the natural and built environment and historic heritage. The Council's spatial strategy to implement this vision is to focus most growth towards the main towns and to strictly control development in the open countryside.
- 9.9. To achieve the Council's vision the CLP 2015 establishes a set of objectives to meet its themes of developing a sustainable local economy, building sustainable communities and ensuring sustainable development (page A.12). Several of these objectives are of relevance to the application including objectives to facilitate economic growth and employment and a more diverse local economy; to support



the diversification of the rural economy; to encourage sustainable tourism; to incorporate the principles of sustainable development in mitigating and adapting to climate change impacts; to focus development in sustainable locations conserving and enhancing the countryside and landscape setting; reducing dependency on the car and protecting and enhancing the historic and natural environment.

- 9.10.** The CLP 2015 also recognises that rural areas must seek to provide appropriate opportunities for new jobs, such as support for farm diversification proposals and rural employment opportunities that are sustainable and support local communities, whilst protecting the landscape of the District.<sup>1</sup> In particular, it encourages proposals that can support a vibrant tourist economy whilst preserving the local environment (para C.238) recognising that in order to remain viable many farms are diversifying into tourism and other uses.

#### *Assessment*

- 9.11. The application site lies within the open countryside, immediately adjacent the Oxford Canal, in a location where both the CLP 2015 and the CLP 1996<sup>2</sup> seek to strictly control development. The CLP 2015 recognises that tourism has scope to play a significant, wealth-creating role for the District (worth over £300 million in the District) and makes a significant contribution to a sustainable local economy, and that it can help support local services and facilities and provide employment.<sup>3</sup> Policy SLE3 supports tourism growth in sustainable locations and the supporting text recognises that the Oxford Canal is not used to its full potential and access should be improved to promote green and sustainable leisure opportunities including water, cycling and boating (Para B.65).
- 9.12. Policy ESD16 of the CLP 2015 specifically relates to the Oxford Canal, and recognises its historic, ecological and recreational significance. The Policy, along with Policy ESD17, seeks to protect and enhance the canal corridor as a feature forming part of the green infrastructure network and a green transport route and as a tourism attraction and leisure facility through the control of development in reflection of the above vision and objectives. Proposals which would harm its biodiversity value or character and appearance will not be permitted. Policy TR11 of the CLP 1996 also seeks to preserve the canal as a resource and resist development which would prejudice its future.
- 9.13. Policy ESD16 does not set out an approach to residential canal moorings and boater's facilities, stating that this will be set out in the Cherwell Local Plan Part 2. It does however state that proposals to promote transport, recreation, leisure and tourism related uses of the canal, where appropriate, will be supported. The Policy goes on to state that other than appropriately located small-scale car parks and picnic facilities, new facilities for canal users should be located within or immediately adjacent to settlements.
- 9.14. The Policy is not specific about what is meant by 'new facilities for canal users', noting that the approach to boater's facilities is to be set out in Part 2. Notwithstanding this, the application site is not within or immediately adjacent to a settlement and therefore the provision of a marina in such a location conflicts with this part of Policy ESD16 in this respect. Conversely, the proposal does seek to promote leisure, tourism and recreational use of the canal in reflection of the aspirations of ESD16.

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<sup>1</sup> See page 241 of the CLP 2015

<sup>2</sup> See Policy C8 which seeks to resist sporadic development in the countryside

<sup>3</sup> See supporting text to SLE3

- 9.15. Inland waterways have an inherent constraint in that they are non-footloose assets, i.e. their location and alignment are fixed. It is also noted, however, that the canal passes through a wide variety of local environments, some close to existing settlements or wharfs, and some much more rural. Policy ESD1 of the CLP 2015 and NPPF paras noted above state that development must be directed towards the most sustainable locations, and in areas well served by local services such that the need to travel is reduced, where people can gain convenient access to public transport services.
- 9.16. Inspectors in considering appeals for such proposals have expressed the view that sites within or adjoining a built up area would plainly be preferable locations, partly because of the possibility for linked trips which they would offer, but also because they would reduce the pressure on the countryside for development.
- 9.17. The application site is remote and not easily accessible. It is located some 750 metres north of Claydon, a Category C village. It is 3.6km from the A423, whether accessed from the north-west or south-west of Claydon, and the nearest Category A settlement is Cropredy some 4.8km to the south, with Southam c. 14km to the north and Banbury c. 10.5 – 11km to the south.
- 9.18. The site is not served by public transport and is not best suited to access by foot or cycle given not only its location, but the constraints of Boddington Road mentioned above. It is also correct, as many residents have commented, that there are very limited facilities available in either Claydon or Lower Boddington. The site is therefore not in a location that is suited to sustainable transport modes and will be dependent on car travel.
- 9.19. The proposal does offer opportunities for walking links into Claydon via the PRoW to its eastern boundary although a connection from the marina to this PRoW will be needed (NB this can be achieved on the applicant's land and can be secured by condition). The County Council has asked for a financial contribution of £10,000 towards improvements to this footpath, including spot surfacing, replacement of a stile to a gate and vegetation management works, but no further detail has been provided.
- 9.20. It is a balanced judgement as to whether the site represents the sufficiently sustainable location for this scale of development. It might reasonably be considered that the proposed development, by reason of its nature, size and scale combined with its isolated location away from settlements, established moorings and existing popular destinations and with poor alternative transport links, would be an unsustainable insertion into the open countryside detrimental to its character and appearance.
- 9.21. Para 83 of the NPPF states that planning policies and decisions should enable both the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside. Planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport. It also seems likely that those who moor their boats in marinas would travel back and forth by car; however accessible the location by alternative means. Boat owners will not all live within easy reach of the proposed marina. The location of the marina is aimed at those boat owners who want an off-line mooring in a rural area, and as such is expected to be reliant on the private car.
- 9.22. However, as noted, and given the site's remote location and poor accessibility credentials, it would be reasonable to expect it to be demonstrated that better, more

sustainable locations had been fully explored and discounted first, and it would be reasonable to consider that there were indeed more sustainable locations that would meet the need for such development – whether or not there we cannot tell.

- 9.23. That said, it is acknowledged that the previous case officer reached a different conclusion on the principle of development.

#### *Conclusion*

- 9.24. The Development Plan seeks to deliver sustainable development and positive growth that balances the drive for a sustainable economy with the protection of the built and natural environment and the area's heritage. It seeks to focus most growth to locations within or adjoining the main towns and to protect and enhance the canal corridor as a green transport route, tourism attraction and leisure facility.
- 9.25. Whilst development in the countryside will be strictly controlled, the Plan recognises the need to support the visitor economy; to preserve the Oxford Canal whilst maintaining and realising its potential; that many farms need to diversify to remain viable; and that opportunities for rural employment should be ensured.
- 9.26. The site is an environmentally unsustainable location for new development of this scale and use and the proposed development would conflict with Policies ESD1 and ESD16 of the CLP 2015. However, noting the conclusions of the previous case officer on this issue, officers consider on very fine balance that the development of a marina in this location may be considered acceptable in principle, with overall acceptability then being dependent on consideration of its impacts on the built, historic and natural environment, alongside its benefits, and whether there are material planning considerations that outweigh this conflict.

#### Need/Demand for a marina

- 9.27. It is appropriate to consider need in the context of potential harm
- 9.28. The applicants advise that they are connected to an existing marina operator who operates marinas in Leicestershire. They advise that they have extensive experience and knowledge of the boating industry and propose this marina as they are satisfied that there is sufficient demand for recreational berths on the Oxford Canal that will ensure that their investment is successful.
- 9.29. The applicants advise that it is not possible to accurately determine the availability of moorings on the canal and point to concerns about competition hindering sharing of information between marina owners. They do, however, believe that there is significant demand for high quality recreational berths on the Oxford Canal. They comment that the berths would attract new boaters to the region who will make a valuable contribution to tourism revenue within Oxfordshire, making use of shops, pubs, restaurants and other tourist facilities. They have supplied supporting information in support of their application which is available on the Council's website.
- 9.30. It is also of note that third parties (including owners of other marinas) have made comments refuting this evidence and commenting that there is already a considerable surplus of marina berths within a 15 mile (c. 24km) radius and that this is also reinforced by delays in implementing a permission for an extension to Cropredy marina.
- 9.31. A report from the Canal and River Trust dating from 2015 (published in response to mooring price decisions) has been provided, which states that south of Napton there

are approximately 870 berths with most operators reported to be full or near full. On the southern stretch of the canal (Napton to Oxford) there are 4 other marinas referred to; two in Napton, one in Cropredy and one in Fenny Compton.

- 9.32. What is clear from the information available is that it is very difficult to find up to date, quantifiable, evidence of need or demand for a marina of this size in this location. The Canal and River Trust does not offer any advice on matters of need/demand and policies pertaining to boaters' facilities were to be addressed in Part 2 of the Local Plan. However, there is no reference in local, adopted, policy to developments such as this needing to establish 'need' for the facility.
- 9.33. In the absence of any clear evidence, and given there is not a policy requirement to establish 'need', the potential benefits of the scheme need to be balanced against the harm that would result from the development and a judgement made about whether any harm is outweighed or otherwise by any benefits.
- 9.34. It must also be noted that such a development as currently proposed will require considerable capital investment, and it is unlikely that the applicant would have proposed, let alone submit a third planning application for the same, if he/she did not believe a healthy return could be made on that investment.

### Highways/Access

#### *Policy*

- 9.35. Policies TR7 and TR10 of the CLP 2015 state that development that would regularly attract large commercial vehicles, generate frequent HGV movements or large numbers of cars onto unsuitable minor or rural roads will not normally be permitted. Policy SLE4 of the CLP 2015 states that 'where reasonable to do so' all development should facilitate the use of sustainable modes of transport. Development which is not suitable for the roads that serve it and which have a 'severe traffic impact' will not be supported.

#### *Assessment*

- 9.36. The application is accompanied by a Transport Statement. Access will be provided from a new access off Boddington Road. The existing agricultural access further north will be retained. Vision splays are shown suitable to 35mph-40mph design speeds.
- 9.37. Boddington Road is a narrow road (3m-4m wide) which is uneven in places and poorly surfaced in parts. It has no footway and is unlit. Many objections have been made to an increase in traffic using this road (and the wider road network including though Claydon village) and the implications for highway safety. This includes not only other car users but also pedestrians, cyclists and horse riders.
- 9.38. The Transport Statement reports traffic count data which found that the busiest traffic recorded on the road was an average of one vehicle every 2 mins with very few HGVs recorded. 85th percentile speeds were recorded as a maximum of 28mph northbound and 26.9mph southbound.
- 9.39. In terms of traffic generation, trip rates can vary depending on the range of facilities available at the marina. TRICS shows that a marina of 192 berths could generate trip rates of 325 trips between 7am and 7pm during weekends (around 27 trips per hour). However, the Transport Statement also provides information collected by former British Waterways in 2008, suggesting that private boats moored at marinas only generate 5 vehicle trips an hour per 100 berths with remaining trips accounted

for by hire boats, sales, visiting public, and catering/retail related. In this case the applicant does not propose hire boats, boat sales and large scale catering/retail facilities and there will not be access available to visiting members of the public.

- 9.40. The Statement also looks at traffic data from a marina at Crick with similar characteristics to the application proposal. The Crick figures suggest that during the busiest hours there could be 12 vehicles per hour entering the site and 9 leaving; this would represent just over one vehicle every 3 minutes during the busiest hours (bank holiday weekends); the suggestion being that actual traffic generation will be lower than TRICS data.
- 9.41. In 2016 planning permission was granted for an extension to Cropredy marina. The extension would increase the number of berths from 249 by a further 100. The applicant for that proposal provided a Transport Statement which demonstrated that the impact of the extended marina, creating a 349 berth marina, would be significantly less than was predicted and considered to be acceptable at the time that the original marina development (249 boat berths) was proposed. When the proposals for the existing 249 berth marina were considered, 120 daily vehicle trips were predicted to be generated. The number of actual vehicle movements each day associated with the 249 berth marina were subsequently recorded at an average of 53 (based on a four week automatic traffic counter survey capturing the busy summer period). The Local Highway Authority (LHA) accepted this position.
- 9.42. The LHA has not objected on highway safety grounds. It does comment that the proposal would see a 'significant' increase in traffic, but in view of the nature of the development and location, states that the proposal is not likely to result in significant detriment to highway safety and/or traffic flow. The LHA further comments that this is not by any means considered severe to warrant refusal on highway grounds in line with the NPPF. By the nature and scale of this development, the LHA considers it unlikely that its impact would be felt during the network peak periods.
- 9.43. The LHA acknowledges the road conditions but does not consider them a basis for objection. The LHA further comments that in order to prevent creeping suburbanisation of the countryside, it is not appropriate to expect the development to provide, or contribute towards, improvements such as paved footways or street lighting in an area that has not got a poor accident record. On quiet lanes where traffic speeds are inherently low due to physical constraints, it will usually be appropriate for pedestrians, cyclists and equestrians to walk/ride along the carriageway on an informal shared-use basis (especially where remote from built-up areas).
- 9.44. However, the LHA has requested the provision of passing places along Boddington Road up to the county boundary. These could be secured by attaching conditions to any permission and such a condition is recommended in the event that permission is granted. A Construction Traffic Management Plan has also been requested (by condition) to ensure that all construction traffic arrives via Springfield Farm rather than Boddington Road. This Plan would also require a dilapidation survey which will ensure that if conditions are worsened by construction traffic to the site remedial measures can be requested.
- 9.45. The applicants have further offered that the marina operator could send guidance to users about routes. This would warn that long vehicles, or vehicles hauling trailers, should not approach from the south because of the hump back bridge. This would also apply to vehicles servicing the marina, such as tankers or refuse vehicles which would be instructed to enter and leave the marina via the north only. Boats would be brought to the site by canal only. A condition requiring submission and approval of a traffic management strategy to secure such measures is recommended.

- 9.46. With regard to emergency access, the LHA assessed the site for emergency service accessibility to within 40m of each building, including swept path analyses of fire appliances into the site. Having done so the LHA advises that the application includes an 11.2m vehicle tracking for vehicles entering and leaving the site using left in/right out manoeuvres. Although this is for refuse, the vehicle used is much longer than any fire appliances used and is within reach of the building. The wider site can be accessed by the inner loop road. The LHA does not see the need to consult fire services.

#### *Conclusion*

- 9.47. On balance, as the LHA has raised no objections on highway safety grounds and whilst recognising the nature of the surrounding road network and the strong objections raised by some residents and the Parish Council, it is not considered that there is evidence that a marina of the nature and size proposed, and with the conditions recommended, would give rise to such levels of traffic that there would be an unacceptable and severe impact on highway safety, or that the residual cumulative impacts on the road network would be severe. In accordance with Paragraph 109 of the NPPF development should not therefore be prevented or refused on highways grounds.

#### Visual and Landscape impact

##### *Policy*

- 9.48. Policy ESD13 seeks to respect and enhance local landscape character. Proposals will not be permitted if they cause undue visual intrusion, harm to important features, are inconsistent with local character and impact on areas with a high level of tranquillity or harm landmark features or the historic value of the landscape.
- 9.49. Policies C28 and C29 of the CLP 1996 seek to ensure new development is sympathetic to its context and designed to a high standard which complements its setting in terms of design, materials and landscaping.

##### *Assessment*

- 9.50. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). This finds that the proposals would result in a very evident change to landform and views, especially along Boddington Road. Due to the visual containment of the site however, it also finds that this change would have a localised effect, especially in the longer term.
- 9.51. Officers agree that the visual impact would be localised. From the north the site is well screened by mature planting along the dismantled railway and from the south the site is well screened from the canal and beyond. From the east the development would be visible from the public footpath, however, in the foreground would be the proposed irrigation lake with the marina in more distant views. The LVIA finds that there are a few long distance views from elevated locations allowing panoramic views towards the site but that the proposed development would either not be visible or form a minor new feature within a distant part of the view having a limited effect on the view.
- 9.52. Most views would be from the new canal entrance and from Boddington Road but only from a short stretch between the dismantled railway and canal bridge due to the topography and existing planting. However, from Boddington Road there would be a very evident change to views, especially in the short term.

- 9.53. Officers raised concerns at the time of the 2018 application in relation to the visual impact of the development from Boddington Road and in response amended plans were submitted which reduced the size of the marina and set its dam some 70m from the road at its nearest point. These plans have been in support of the current application.
- 9.54. In addition, the car park and yard area (and consequent extent of hard surfacing) has been considerably reduced from this aspect, the service bays have been relocated and the berths have been moved further east. This all has the effect of reducing the impact from Boddington Road, enabling a much shallower embankment and provision of additional landscaping.
- 9.55. Officers are satisfied that the current proposals, whilst inevitably resulting in change and some degree of conflict with Policy ESD15, would not result in serious harm to landscape character or visual amenity to the extent that there would be a resulting conflict with Policy ESD13. Whilst it is noted that the arrival of HS2 would have an impact on the local landscape and context, this is not considered to lead to the impact of the marina being any more harmful.
- 9.56. External lighting is proposed to be low level and directed downwards. This can and would need to be secured by appropriate conditions.
- 9.57. The clubhouse/facilities building amounts to 281.40 sq m and is traditionally designed to replicate a two storey barn with a single storey wing/extension. The main elevations consist of horizontal timber cladding and local stone. Detailing features red brick quoins and red brick soldier course detailing. External glazing and openings are traditionally styled to reflect features typically associated with agricultural barns & buildings. The windows and doors would be stained hardwood and the pitched roofs will be finished in slate. The proposed facilities building has been positioned to provide the Marina office with an unrestricted view of the Marina canal entrance and new road access to ensure maximum visibility of the main key operational areas in the interests of site safety and security.
- 9.58. The principle of taking this traditional approach is supported (including by the CRT), although conditions are recommended to secure appropriate detailing. The scale of the building is not considered to be inappropriate, nor its location given the security and surveillance function of the building.
- 9.59. In terms of landscaping, 10 semi-mature ash trees would need to be removed to construct the marina entrance but extensive planting is proposed within the site which would include additional planting behind the canal hedgerow. Landscaping proposals are well developed and would help to assimilate the development into the surrounding countryside. Core woodland planting would take place at 2m centres with shrub species at the woodland edge.

### *Conclusion*

- 9.60. The proposed development would result in adverse visual impacts but these would be localised. The marina and its associated buildings and earthworks would be a distinct feature in the local landscape, particularly in the short term until the landscaping is established. Officers are, however, mindful that the Council's Landscape Architect agrees with the methodology, commentary and findings of the submitted LVIA and raises no objections in terms of visual or landscape impact and, on balance, are satisfied that the amended plans overcome previous concerns and that the amended proposals would not result in serious harm to landscape character or visual amenity to the extent that there would be a resulting conflict with Policies ESD13, C28 or C29.

## Heritage Impact

### *Legislative and policy context*

- 9.61. The application site is an area of agricultural land to the north of the Oxford Canal. The full length of the canal through the District is a designated Conservation Area and the site lies within its setting. The site does not lie within the conservation area but is within the setting of the conservation area at this location. There are approximately nine Listed Buildings within the wider area; these are along the canal to the south, the closest at Top Lock and within the village of Claydon.
- 9.62. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.63. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore significant weight must be given to these matters in the assessment of this planning application.
- 9.64. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.65. Policy C23 of the CLP 1996 applies a presumption in favour of retaining features which make a positive contribution to a conservation area.
- 9.66. The significance of the site lies in the association between this area of currently agricultural land and the canal conservation area.
- 9.67.** The Oxford Canal Conservation Area Appraisal does not consider the site an 'Important Open Space'. However, it does mention positive vistas across parts of the site from the canal. This Appraisal also notes the development of marinas as a potential threat to the conservation area suggesting "strongly" that any future development of marinas in the rural areas be very carefully designed and quite limited in their capacity. Otherwise they would be obtrusive and inappropriate. It is further recommended that large marina development should be within urban areas, such as Banbury or Kidlington. 'Large' and 'quite limited' in this context are not defined.
- 9.68.** Both the applicant's heritage consultant and the Council's Conservation Officer consider that harm to the setting and significance of the conservation area would be *less than substantial*. Regard must also be had to the very recently issued national guidance in respect of assessing harm to a heritage asset. The PPG makes it clear that within each category of harm, the extent of the harm may vary.
- 9.69. Nevertheless, regardless of the extent of harm, great weight should be given to the asset's conservation and any harm requires clear and convincing justification and should be weighed against the public benefits of the proposal.



- 9.70. In this case the heritage asset is the Oxford Canal as a whole within the District. Except for the creation of the marina entrance, the canal would be untouched. The canal towpath and hedgerow would be unaffected and the original function of the canal would still be clearly read. A recreational marina is development of a character which is not unexpected alongside a canal and not, in terms of use, necessarily incongruous, noting that planning permission has been granted for other marinas along the canal's length. Views of the marina from the canal and towpath would be limited in scope, not least by the established and dense hedgerow planting which runs alongside the canal for the affected stretch. Save for the entrance, the visual impact on views out from the canal to its surroundings, would be limited in extent.
- 9.71. The canal is currently a tranquil space and the surrounding area for the affected stretch is very attractive, remote, undulating countryside. The creation of a marina of the size proposed with its associated earthworks, buildings, hardsurfacing and activity would inevitably have some impact on the character of this short stretch of canal. However, in the wider context of the canal as a whole this impact would be reduced in significance and any increase in noise and activity would be generated by a related function. The marina has been designed with its context in mind and proposes an 'organic' shape with landscaped 'islands' and landscaping around it.
- 9.72. Nevertheless, the marina and its associated hardsurfacing, access, earthworks building and activity would introduce a new feature into the rural landscape providing part of the countryside setting for this stretch of canal. The harm would be 'less than substantial'. That said, the extent of harm must be seen in the context of the canal as a whole, which one might consider to temper the harm somewhat. The planning balance section at the end of this report will weigh this harm against any public benefits likely to arise.

### *Conclusion*

- 9.73. For the reasons set out above, and given that the proposals would result in less than substantial harm to the significance of the canal conservation area, the proposals conflict with Policies ESD15 and ESD16 of the CLP 2015. This harm will need to be weighed against the public interests, examined further in the planning balance.

### Impact on the canal as a tourist and leisure asset and green transport route

- 9.74. There is no evidence to suggest that the value of the canal as a tourist/leisure asset and green transport route will be adversely affected by the proposal. Indeed, the application seeks to provide services for boaters to enable easy access to use the canal for such leisure pursuits.
- 9.75. Third parties have raised concerns about available water resources and the impact of increased boat traffic on users of the canal, suggesting that there would be an impact on the already strained water level and congestion and queues at the locks. Boat users report that there is a water shortage at a number of locations on the Canal causing problems during holiday season with boats running aground. Low levels along the southern section of canal are attributed to high lockage use from an increase in boat traffic. There are concerns that increased traffic would add to congestion on the canal and undermine its value and enjoyment for existing boat users.
- 9.76. The Canal and River Trust was asked for a view on these concerns and has commented that the issue of congestion on the waterways is subjective; there is no commonly agreed definition of congestion. They further advise that following an extensive period of research and consultation with the trade, a British Marine Federation/Canal & River Trust agreed process is now applied to all new marina

applications affecting popular boating areas. In relevant cases the Trust will provide estimates of boat movement increase (at the key locks within the relevant area) and make this available to LPAs on request. Whilst they acknowledge their press release of the 1st March 2018 titled "Oxford Canal named as nation's most popular waterway with boaters", they state that the proposed marina does not fall within a defined popular boating area in relation to the Trust's process for appraising new marinas.

- 9.77. The Trust also advises that it undertakes a tiered assessment approach to consider water resources impact of new marinas and whether proposals would lead to unacceptable impact. In this case they comment that although the marina would place a greater demand on water resources the impact would be minimal and therefore deemed acceptable.
- 9.78. In light of the Trust's comments, the Council does not have evidence to demonstrate that the proposed marina would undermine the canal's role as a leisure and tourism asset or conflict with Policy ESD16 in this regard.

### Ecology and Biodiversity Impact

#### *Legislative context*

- 9.79. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.80. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.81. The Regulations provide for the control of potentially damaging operations, whereby consent from the appropriate nature conservation body may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.82. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?

- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.83. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.84. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.85. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.86. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.87. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.88. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.89. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development.

Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

### *Assessment*

- 9.90. Natural England's Standing Advice states that habitats that may have the potential for protected species, and in this regard the site is adjacent to the canal, close to a stream and Local Wildlife Site and there are a number of mature trees and hedgerows within and adjacent the site. Whilst the land is in agricultural production, it therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.91. The application is accompanied by a Preliminary Ecological Appraisal (PEA) as well as a Follow Up Report concerning potential impacts on Wormleighton Brook, opportunities for habitat and connectivity improvements to the LWS and enhancement options for Otters. A Biodiversity Impact Assessment has also been undertaken. It is noted that over 70% of the site is currently in arable production but there are however features of ecological interest such as grass edges, hedgerow boundaries, the canal, nearby watercourse and areas of woodland. There is evidence of badger activity within 2km of the site, trees with potential for bats and moderate foraging habitat, features suitable for nesting birds, habitat suitable for Great Crested Newts and reptiles. There are records of Otter within 2km of the site and water voles within 100m. The ecological information submitted considers the impact on designated sites, the watercourse, habitats and protected species and proposes mitigation where necessary.
- 9.92. The Council's Ecologist finds the submitted ecological appraisal to be acceptable in scope and depth. The arable nature of the site leaves it with limited ecological value other than in hedgerows/ditches. The proposed landscaping with addition of the wildlife peninsular and lake will have some benefits for wildlife in the long-term, as would the additional planting. This includes enhancements for several bird species, foraging opportunities for bats and breeding opportunities for amphibians. Appropriate mitigation during and after construction can further reduce impacts.
- 9.93. Overall, there would be some level of net biodiversity gain although further enhancements should be secured through conditions so there is an agreed level on-going. A Management Plan should also be secured.
- 9.94. To the north of the application site lies the North Claydon Disused Railway Local Wildlife Site (LWS). The Council's Ecologist initially raised concerns about indirect impacts and whether there would be significant increases in recreational use of the LWS of North Claydon disused railway, including by domestic pets. The applicants have advised that boat owners will not be permitted to keep cats on their boats. Some boat owners do own dogs and bring them to their boats, but within the marina dogs will have to be kept on leads and not allowed to roam freely.
- 9.95. The amended plans now propose enhancement of the LWS by providing further scrub planting between the marina site boundary and the northern boundary of the applicant's land to enhance the LWS and provide cover to reduce any disturbance to Otter along the brook. The applicant has agreed to plant and manage this in a manner which improves connectivity of the LWS to the surrounding habitats including those proposed within the site.
- 9.96. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded and that the Council's statutory

obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged. It is further considered that the proposal would not conflict with the aims of Policy C5 of the CLP 1996 and Policies ESD10 and ESD16 of the CLP 2015.

### Drainage and Flooding

#### *Policy*

- 9.97. Policy ESD6 of the CLP 2015 seeks to use the sequential approach to development where necessary. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower risk and the benefits of the development outweigh risks from flooding. Policy ESD7 seeks to ensure development uses sustainable drainage systems (SuDS) for the management of surface water run-off.

#### *Assessment*

- 9.98. A small part of the site along its northern boundary lies within FZ 2 and 3. The remainder is within FZ1. The application has been amended from the 2018 submission, including a revised Flood Risk Assessment (FRA), in order to respond to the concerns of the Environment Agency and County Council at the time of the previous application. The amendments place the area of development (basin, embankments, access, roads, car parking areas etc) outside of FZ 2 and 3 and wholly within FZ1.
- 9.99. The Environment Agency no longer objects to the proposals, subject to conditions.
- 9.100. Surface water runoff from the access roads and parking areas outside of the marina basin would be directed to filter drains along the edges of the access roads. The filter drains would then outfall at a restricted rate to a detention basin located on the eastern side of the site and a smaller basin closer to Boddington Road. The detention basins would then outfall to the adjacent lake and watercourse.
- 9.101. The access roads within the marina basin would be gravel and any run-off from these access roads along with the building, maintenance yard and other hardstandings within the marina basin would be directed and stored within the marina.
- 9.102. The drainage system would be maintained by the owners/manager and not offered for adoption. The Lead Local Flood Authority (LLFA) does not object to the proposals.
- 9.103. Foul drainage from the facilities building would drain to a package treatment plant which will discharge into the nearby watercourse<sup>4</sup>. A private foul water pumping station and a rising main would be necessary to direct foul flows from the clubhouse to the proposed treatment plant, due to the level differences. Foul waste from the narrowboats would be pumped to an underground holding tank where it would be periodically emptied via a licenced waste disposal firm.
- 9.104. The CRT comments that the drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water or foul drainage and full details should be submitted and agreed. These details should also include details on petrol interceptors and maintenance

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<sup>4</sup> A Discharge Licence from the Environment Agency will be needed.

regimes to ensure the systems continue to operate as intended. Such details are recommended to be secured by conditions.

### *Conclusion*

9.105. In light of the responses from the EA and the LLFA, the proposals are considered to accord with Policies ESD6 and ESD7 of the CLP 2015 and Government guidance in the NPPF in this regard.

### Economic and Social Implications

9.106. The proposal would provide some valuable local employment opportunities during construction and operation in this rural area. When operational it is likely to require the recruitment of 3 full time and 3 part time employees.

9.107. Whilst very difficult to quantify, wider economic and social benefits are also likely to arise such as providing more choice for boat owners, increasing local visitor spend in the District as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities and encouraging longer stays and increased numbers of visitors in the District. The proposal also helps to sustain and diversify an existing agricultural enterprise.

9.108. In terms of social benefits, the applicants are also keen to see the marina and its facilities make a contribution to local education. As such they have approached local primary schools to discuss whether the facilities that the Marina offers would be of interest to them for educational purposes. This could be in terms of use of the building and site for teaching, as well as the marina being of interest from an ecological and heritage perspective. The lake could have a jetty that would allow supervised primary school children to study aquatic wildlife by allowing them to “pond dip” safely for example. Positive responses were received from 3 primary schools in the area at the time of the 2018 planning application.

### Impact on residential amenity

9.109. Policy ENV1 of the CLP seeks to avoid development causing materially detrimental levels of noise, vibration, smell, smoke, fumes or other environmental pollution.

9.110. Those residential properties most closely related to the application site include a property north of the site on the other side of Boddington Road around 500m away, the northern edge of Claydon village to the south and the residential canal moorings

9.111. The location of the site and the nature of the use is such that the proposed development is not considered to cause harm to the amenity of nearby residents. The closest residential properties are sufficiently distant from the proposed marina. The Council’s Environmental Protection Team has not made objections and it is not considered that there would be conflict with Policy ENV1. Construction impacts are considered below.

### Other relevant planning matters

#### *Construction impacts*

9.112. Concerns have been raised about the impact of the construction phase of development on the local highway network and the amenity of residents.

9.113. All development is likely to result in some temporary disruption to the highway and to neighbours, and this is not itself a reason to refuse permission except in the most

exceptional circumstances. Furthermore, there are separate controls under Environmental and Highways legislation which can be used to manage the impact of construction work. Nevertheless, it is considered appropriate to condition a Construction Management Plan to ensure the impact of construction work is properly managed and kept to a minimum.

9.114. Construction traffic is expected to be minimised due to the use of cut and fill to construct the marina with material not needing to be exported off site. Apart from staff cars, construction related visits would be confined to bringing in plant at the beginning and end of operations and importing of materials for the construction of the clubhouse building.

9.115. Contractors and construction traffic would not be permitted to access the site via the new highway access off Boddington Road and all construction equipment will be brought to the site via Springfield Farm and through the fields, to the east. The farm and route across the fields are wholly within the applicant's land ownership. This can be approached from either the A423 or the A361 via Lower Boddington village. This will avoid the need for heavy construction traffic to travel through the village of Claydon and over the existing canal bridges. A Construction Traffic Management Plan can and should be secured by way of condition.

#### Water Resources (including impact on Boddington Reservoir)

9.116. Policy ENV7 of the CLP and Policy ESD8 seeks to maintain water quality and ensure adequate water resources. Development which would adversely affect water quality will not be permitted and development will only be permitted where adequate water resources exist or can be provided.

9.117. Third parties have raised concerns about available water resources and the impact on users of the canal (all comments can be viewed on the Council's website). The Canal and River Trust advises that it undertakes a tiered assessment approach to consider water resources impact of new marinas and whether a proposals will lead to unacceptable impact. In this case they comment that although the marina will place a greater demand on water resources the impact will be minimal and therefore deemed acceptable.

9.118. In response to the objections raised by Banbury Sailing Club the CRT comment;

*As part of the new marinas process that the Trust uses to assess whether or not we should allow new marinas to connect to our network, we carried out a Stage 2 Water Resources Study. The study considers the impact of the marina proposal on our service standards for navigating canals and rivers within the hydrological unit. Its purpose is not to consider the impact on individual water bodies within that hydrological unit and it is not calibrated to do so. We can, however, provide the following information to assist the council.*

*The stage 2 study for the proposed Claydon marina concluded that the uplift in demand as a result of the development would be 48 Ml/annum (net impact on the hydrological unit). This is the equivalent of approximately 1% of the average annual inflow to Boddington Reservoir. The marina will be located on the South Oxford Summit, which is part of the Ox&GU hydrological unit. As such, the increased demand from the marina will not simply be met by an increased feed from Boddington Reservoir, even if it is a preferred source. Canal demands within the hydrological unit are met by a combination of water from eight reservoirs and numerous surface water feeders. Additionally, backpumps have the ability to recirculate the water used as boats move through the locks and to transfer water around the hydrological unit. The Trust's Water Management Team consider water*

*levels in our reservoirs on a weekly basis to assist our decision-making about where to draw water from.*

*For the reasons above, it is problematic to put the increased demand into the context of a change in water level in Boddington Reservoir. The top 200mm section of the reservoir (i.e. -0.2m below top water level) contains roughly 48 Ml of reservoir storage (the assessed uplift in demand). However, assuming the marina will result in the reservoir operating 200mm lower than currently/pre-marina is incorrect. As outlined above, the increase in canal demand will be met from a combination of different sources, not by one single reservoir.*

*The Trust, as owner of the reservoir, recognise and value the activity of the sailing club and their use of the reservoir. We also have to be mindful that the primary function of the reservoir is to supply water to the canal network. The stage 2 water resources study assesses the impact of the marina on our service standards for the navigation of the canal network and is appropriate for our needs. As we have advised, a number of sources can be used to supply water to the canal. In these circumstances, it is unclear as to how a definitive answer about the impact of the development of the marina on water levels in the reservoir can be established.*

9.119. In light of the response of the CRT there is no evidence that the development would give rise to an unacceptable impact on the water resource of the canal or conflict with ESD8 or ESD16.

#### Residential Use and Impact on local facilities

9.120. Many of the objections received suggest that the boats would be lived in permanently and that non-residential use would not be enforced. It is suggested that this would have a harmful impact on local services, which are limited in any case. The impact of the marina on the GP service at Cropredy is mentioned as an example.

9.121. This report highlights potential benefits to local services and facilities from increased patronage. Concerns have been expressed about the adverse impact of permanent residential use on services like GP surgeries and schools. The marina is proposed to be for recreational use, which means that the impact on services like schools and GPs should be minimal, but to avoid putting further strain on local services it is key that conditions restricting permanent occupation are both enforceable and enforced.

9.122. The applicants have confirmed that the marina is proposed to be wholly recreational and that no permanent residential use of the boats would be permitted. The marina at Cropredy was similarly proposed for recreational use only. The Council has previously accepted, by the granting of planning permission for the marina at Cropredy, and its subsequent extension, that occupation of the boats can be controlled by applying conditions. This is not an unusual approach.

9.123. Reports have been received that the boats at Cropredy are being occupied on a permanent basis. This has been investigated by the Planning Enforcement Team but it is fair to say that the drafting of the occupancy conditions has caused some issues with enforceability in the past and being able to establish at what point occupancy becomes permanent.

9.124. As a result of these issues, when planning permission was granted for the extension to Cropredy marina the conditions were supplemented and strengthened. The report to the Planning Committee at that time (application 16/01119/F refers) states (abridged);



*Comments received from the Parish Council and from third parties have raised concerns that some individuals are living permanently at the site.*

*In response to the concerns raised by the Parish Council, officers have investigated this matter further. It is the case that a small number of boats moored at the existing marina (seven) appear to have registered address points at the marina and some appear on the electoral roll (i.e. registered to vote) at these addresses. This would suggest that these boats may be occupied residentially on a permanent basis at the site. However, this small number of boats is not a significant number and would therefore not in itself bring into question the need or justification for an additional basin. Furthermore, there is no evidence to suggest that the pressure for additional moorings at the site (and so the reason for the current application) is being driven by unauthorised residential use and not demand for additional leisure moorings.*

*As regards the current application, officers are satisfied that when considered on its own merits it is acceptable in principle for the reasons outlined above, and concerns about occupancy can be adequately addressed and enforced by condition.*

9.125. This was accepted and planning permission was granted for the marina extension with conditions limiting occupancy imposed. In response to the objections raised to this current application, these conditions have been reviewed again and strengthened conditions are recommended which both restrict the number of consecutive days/nights the boats can be occupied, as well as the total number of days/nights the boats can be occupied in any one year. The requirement for the operator to maintain a register of boats is retained but again strengthened to ensure the register is available to the Council on request.

9.126. Whether someone is occupying a boat recreationally or residentially depends on individual circumstances and will include factors such as whether they have a permanent place of residence elsewhere, where they are registered to vote/pay Council tax, where they receive utility bills and bank statements etc. It does present some challenges but that is not to say that appropriately worded conditions would not meet the 6 tests set out in the NPPF. Officers are satisfied that the conditions recommended do meet these tests.

#### *Building Regulations*

9.127. An application for Building Regulations Approval will be needed for the buildings if planning permission is granted. Oxfordshire Fire and Rescue Service has been consulted with regard to fire safety/firefighting but no comments have been received. The Highway Authority advises that they have assessed the site for emergency service accessibility and they have raised no concerns on these grounds.

9.128. The internal access routes will be suitable for use by wheelchairs and there will be moorings that are wheelchair accessible.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. In the absence of a clear position on need/demand for a marina of this size in this location, Officers have sought to balance the benefits of the proposal against its impacts.

10.2. The site is in a remote location with poor sustainability credentials; there are very limited facilities available in either Claydon or Lower Boddington and the site is a significant distance from Cropredy as the nearest Category A village. The site is therefore not in a location that is suited to sustainable transport modes and users of the marina would be dependent on car travel. The proposed development, by

reason of its nature, size and scale combined with its isolated location away from settlements, established moorings and existing popular destinations and with poor alternative transport links, could reasonably be considered an unsustainable insertion into the open countryside detrimental to its character and appearance, and conflicts with Policies ESD1 and ESD16 of the CLP 2015. That said, the previous case officer concluded differently on the 2018 application and it would seem unreasonable for officers to now take a different view, especially since the policy context and environment have not changed in the intervening time.

- 10.3. The proposal would result in harm to the significance of the Canal Conservation Area through change to its setting. This harm would be *less than substantial*. The proposal conflicts with Policy ESD15 of the CLP 2015. Conservation Areas are designated heritage assets and Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Great weight must therefore be given to this harm.
- 10.4. There are other impacts as a result of the development, notably the localised visual and landscape impact, alongside an increase in traffic on the surrounding road network. However, for the reasons explained in the report, these are not considered to be significant adverse impacts which conflict with the development plan and warrant refusal of the application.
- 10.5. On the other hand, there are some benefits to be considered in the balance. These include economic benefits arising from providing more choice for boat owners, increasing local visitor spend in the District as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities, encouraging longer stays in the District and providing some valuable local employment opportunities during construction and operation in this rural area. The proposal also helps to sustain and diversify an existing agricultural enterprise.
- 10.6. There are also considered to be some, minor, environmental benefits arising from the biodiversity enhancements proposed and the opportunity for some, albeit more limited, social benefits.
- 10.7. The application is finely balanced but, in light of the previous officer's conclusion on the 2018 application, it is considered on very fine balance that the adverse impacts – the location of the development remote from key facilities and with poor accessibility credentials, the impact on the visual amenity of the local area, and the *less than substantial* harm to the significance of the conservation area – do not significantly or demonstrably outweigh the benefits of the development.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY

PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

Section 106 contributions - An agreement will be required under Section 106 of the Town and County Planning Act 1990 to mitigate the developments local highway impact under Section 278 of the Highways Act 1980 to enable completion of off-site highway improvements (£10,000 for footpath improvement works). This includes identifying places within highway to provide at least passing places along Boddington Road.

Section 278 Highway Works: An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works along Boddington Road by provision of about three passing bays in suitable locations within Oxfordshire County Council jurisdiction. This is secured by means of S106 restriction not to implement development (or occasionally other trigger point) until S278 agreement has been entered into. The trigger by which time S278 works are to be completed shall also be included in the S106 agreement.

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 18<sup>th</sup> January. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate footpath improvements required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies SLE4, ESD1, ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and relevant Government guidance in the National Planning Policy Framework.

## CONDITIONS

### **Time Limit**

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans:
  - Site Location Plan AdamCM-1-5-001A dated 06/02/2019
  - Proposed Site Plan A05/020F dated 15/07/2019
  - Proposed Site Plan (Levels and Contours) A05/022E dated 15/07/2019
  - Proposed Site/Marina Sections A05/100F dated 19/07/19

- Proposed Highways Access and Visibility Splay Plan ADAMCM-1-1-005 Rev A dated 15/01/19
- Proposed Detention Basin Sections ADAMCM-1-4-003 dated 21/08/19
- Landscaping Proposal - Species Selection and Planting Specification: April 2018 (Rev B – July 2019)
- Tow Path Bridge A05/601B dated 25/10/2018
- Proposed Building A05/405B dated 28/01/2019

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

### **Compliance with Ecological Report**

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in Section 4 of the Preliminary Ecological Appraisal Report by RSK dated April 2018 and Section 3 of the RSK Follow Up Report dated 27<sup>th</sup> July 2019 unless otherwise agreed in writing by the Local Planning Authority. This shall include;
  - Completion of a detailed badger activity walkover survey no more than 3 months prior to development or site clearance works commencing, with the findings and any mitigation and/or Licensing requirements submitted to the Local Planning Authority for written approval. No development or site clearance to take place until such written agreement is provided.
  - A hand-search of any suitable terrestrial-phase amphibian and reptile habitat prior to any vegetation clearance. Once the affected area has been hand-searched, the habitat will be made unsuitable for amphibians and reptiles as a precaution, by strimming long grass from the centre in an outwards direction to allow any animals present to move to adjacent habitat. The habitat will be kept in an 'unsuitable' condition for terrestrial-phase amphibians and reptiles until the construction phase is complete, during which time enhancements will be made across the wider site for a variety of species, including amphibians in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. Any common reptiles and amphibian species found will be moved to suitable areas in the north of the site which will not be affected by works.
  - Checks for Holts and Otter resting sites prior to construction.
  - Ecological Clerk of Works present on site to assess exact headwall locations prior to de-vegetation and during installation.
  - Use of subdued lighting located away from the watercourse so as not to illuminate the brook corridor.
  - Planting and maintenance of additional habitat outside of the site's northern redline boundary (part of the North Claydon Disused Railway LWS) to provide additional cover and habitat connectivity between the watercourse and the boundary of the proposed development.
  - Leaving the banks along the north-eastern boundary of the site (adjacent to Wormleighton Brook) undisturbed and uncut to encourage

vegetation growth for otter and water vole.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework and to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

## PRE COMMENCEMENT CONDITIONS

### Access Provision

4. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### Construction Traffic Management Plan

5. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CTMP should incorporate the following in detail:
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles with signage to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any road closures needed during construction.
  - Details of and approval of any traffic management needed during construction.
  - Details of wheel cleaning/wash facilities – to prevent mud etc. from vehicle tyres/wheels migrating onto the adjacent highway.
  - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works including any footpath diversions.
  - The erection and maintenance of security hoarding / scaffolding if required.
  - Contact details of the Project Manager and Site Supervisor responsible for on-site works.
  - The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
  - No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted. Areas to be shown on a plan not less than 1:500.
  - Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes.

- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### **Improvements to Boddington Road**

6. No development shall take place until details of improvements to Boddington Road which shall include the provision of passing places to the north of the access to the marina have been submitted to and approved in writing by the Local Planning Authority. The improvements shall be completed in accordance with the approved details before the marina is first brought into use.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### **Construction Method Statement and Environmental Management Plan**

7. No development shall take place until a Construction Method Statement and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Statement and Plan shall provide for at a minimum:
  - details of pollution prevention measures
  - method of construction to ensure that there would be no potential threat to the water environment of the adjoining canal and the wider network
  - the parking of vehicles of site operatives and visitors
  - the loading and unloading of plant and materials
  - the storage of plant and materials used in constructing the development
  - Details of protective measures to protect current biodiversity interest and avoid impacts during construction (both physical measures and sensitive working practises)
  - Measures to control the emission of dust and dirt during construction
  - A scheme for recycling/ disposing of waste resulting from construction works
  - A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons)
  - The mitigation measures recommended in Section 4 of the Preliminary Ecological Appraisal Report by RSK dated April 2018 and the RSK Follow Up Report Rev 3 dated 26<sup>th</sup> July 2019 including appropriate mitigation to avoid negatively impacting upon Wormleighton Brook and its surrounding habitats during the construction phase of the development
  - Details of how regular reviews of the impacts on the Local Wildlife Site will take place during construction
  - Delivery, demolition and construction working hours

- Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation
  - iii) Installation of physical protection measures during construction;
  - iv) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
  - v) Provision of training and information about the importance of Environment Protection measures to all construction personnel on site.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - To ensure the environment is protected during construction, in the interests of the structural integrity of the waterway, to ensure the proposed works do not have any adverse impact on the safety of waterway users, the integrity of the Canal, the general public and features of ecological importance in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government policy contained within the National Planning Policy Framework.

### **Tree Protection**

8. No development shall take place until the existing trees and hedgerows to be retained have been protected in accordance with a Tree Protection Plan and Arboricultural Method Statement that has been submitted and approved in writing by the Local Planning Authority. The approved protection measures shall be in place before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by any barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. Development shall not begin until a detailed foul and surface water drainage scheme for the site, in accordance with the approved flood risk assessment and Drainage Strategy, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- a compliance report to demonstrate how the scheme complies with the 'Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire'
- full micro-drainage calculations for all events up to and including the 1 in 100

year

plus 40% climate change

- a Flood Exceedance Conveyance Plan
- detailed design drainage layout drawings of the SuDS proposals including cross section details
- detailed maintenance management plan in accordance with Section 32 of CIRIA *C753 including maintenance schedules for each drainage element; and*
- details of how water quality will be managed during construction.

Reason : To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

10. No development shall take place until a scheme for the provision, protection and management of a 10 metre wide ecological buffer zone alongside the Wormleighton Brook has been submitted to, and approved in writing by, the local planning authority.

Thereafter, the development shall be carried out in accordance with the approved scheme and retained and maintained thereafter throughout the lifetime of the development. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping.

The scheme shall include:

- plans showing the extent and layout of the ecological buffer zone (measured from the top of the bank)
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan
- details of any proposed footpaths, fencing, lighting, etc.
- confirmation that any headwalls along the brook will be sized appropriately to the discharge and that the localised impact will be mitigated for.

**Reason** Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. This Condition will ensure that the ecological value of the brook and its corridor will be protected during the construction phase and management in perpetuity for the benefit of local wildlife. This approach is supported by Cherwell Local Plan policies ESD8 and ESD10, and paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. This condition is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

#### CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE FIRST USE OF THE MARINA

11. The marina shall not be brought into first use until a footpath link from the site connecting into the existing public rights of way network (footpath 170/6/20) and as shown indicatively on the PROW Access Plan AdamCM-1-1-004 dated 15<sup>th</sup>



November 2018 has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The footpath link shall be retained and made available for use by users of the marina at all times thereafter.

Reason : To provide convenient pedestrian links with the existing public rights of network to facilitate access between the development, Claydon village and the surrounding countryside to comply with Policy ESD15 and ESD17 of the Cherwell Local Plan 2011 – 2031 Part 1, and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### **Landscaping**

12. Notwithstanding the approved plans, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority which shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard landscaping including hard surface areas, pavements, footpaths, parking and yard areas, pedestrian areas and steps

(d) Tree Pit details

Such details shall be provided prior to the first use of the marina, or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The hard landscape elements shall be retained as such thereafter. The soft landscape elements shall be implemented by the end of the first planting season following completion or first use of the marina, whichever is the sooner. Any tree(s) or shrub(s) removed, dying, or becoming seriously damaged, defective or diseased within 10 years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Traffic Management and Routeing Strategy**

13. No boats shall be moored at the marina until the applicant has submitted to the Local Planning Authority a Traffic Management and Routeing Strategy and had that Strategy approved in writing by the Local Planning Authority. This Strategy

shall provide details of measures that will be taken by the marina operators to ensure that wherever possible all vehicles visiting the marina enter and leave the marina to the north and avoid routing through Claydon village. The marina operators shall ensure that the agreed measures are in place before the marina is first brought into use and maintained at all times thereafter

Reason: To help minimise disturbance and inconvenience to residents of Claydon Village where possible to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

## **LEMP**

14. A Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the marina. The LEMP shall show ongoing management and objectives for the site with the aim of achieving the best possible ecological condition for all habitats in the long term and shall include the following details;

- Landscape and ecological maintenance and management arrangements for the site for a minimum period of 25 years with the aim of achieving best possible ecological condition for all habitats in the long term;
- Additional enhancement measures for wildlife to demonstrate that a net biodiversity gain will be achieved (including within the building proposed)
- Areas of habitat provision on site in areas that are less accessible to people
- Proposals for the use and management of the irrigation lake (which shall not be stocked with fish)
- Measures to prevent any disturbance by domestic pets
- Proposals for the enhancement and maintenance of the buffer to the LWS.

Thereafter the measures approved in the LEMP shall be carried out as approved and all habitats and planting shall thereafter be maintained/managed for a period of at least 25 years from the completion of the development in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage and to ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

## **CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE**

### **Materials and Detailing**

15. Samples of the slate to be used in the construction of the roof of the facilities building and the timber cladding and bricks to be used on the walls of the facilities building shall be submitted to and approved in writing by the Local

Planning Authority before construction of the facilities building above slab level. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the facilities building hereby approved above slab level, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the building shown on the approved plans to be stone shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Notwithstanding the approved plans, prior to the commencement of the facilities building hereby approved above slab level, full details of the doors and windows (which are to be constructed in timber) and eaves and verges hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors, windows, eaves and verge shall be completed in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. Notwithstanding the approved plans, prior to the commencement of any works to the marina entrance from the mainline of the Oxford Canal full details of the marina entrance and towpath bridge shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- Handrail details to the towpath bridge;
- Surface finishes for the towpath bridge and approach ramps;
- Finishes for the 'Geobag' retaining structure;
- Maintenance and management regimes for the marina entrance and towpath bridge.

Thereafter the works shall be carried out wholly in accordance with the approved details.

Reason: In the interests of the visual amenities of the Oxford Canal Conservation Area and to ensure the proposed works do not have any adverse impact on the safety of waterway users and the integrity of the Oxford Canal in accordance with Policy ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within the National Planning Policy Framework in particular 120 & 121.

## **SuDS**

19. The development shall be carried out in accordance with the submitted flood risk assessment (ref 1319/2019 Rev B dated 26/07/2019) and the Hydraulic Modelling Report 2420 Rev C August 2020 and following mitigation measures it details:

There shall be no land raising within the 1% annual probability flood extent with a 35% allowance for climate change as shown in Appendix 14 of the modelling report August 2020

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

### **Reason**

To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere by ensuring that storage of flood water is provided.

20. The development shall be carried out in accordance with the submitted flood risk assessment (ref 1319/2019 Rev B dated 26/07/2019) and the Hydraulic Modelling Report 2420 Rev C August 2020 and following mitigation measures it details:

There shall be no land raising within the 1% annual probability flood extent with a 35% allowance for climate change as shown in Appendix 14 of the modelling report August 2020

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

### **Reason**

To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere by ensuring that storage of flood water is provided.

## **Bin Storage/Furniture**

21. Full details of the following structures shall be submitted to and approved in writing by the Local Planning Authority before their installation in the development;

- Refuse and recycling bin storage including location and compound enclosure details;
- Permanent Outdoor Seating;
- Permanent Outdoor Tables.

Thereafter the structures shall only be provided in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development, and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

### **Enclosures**

22. No enclosures along any of the site boundaries or within the site (including any walls, fences or gates) shall be erected unless details of those enclosures have previously been submitted to and approved in writing by the Local Planning Authority.

Reason : To ensure the satisfactory appearance of the completed development, and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

### **External Lighting**

23. Details of all external lighting including the design and specification, position, orientation, illumination levels and any screening of the lighting alongside their operation, management and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government advice in The National Planning Policy Framework.

### **ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES**

#### **Site Clearance**

24. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority

Reason : To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

#### **Occupancy and Use Restrictions**

25. All boats moored at the marina hereby approved shall be occupied at all times only for the purposes of recreational moorings and not for any permanent residential or hire fleet purposes or any other purpose whatsoever. None of the 192 boats moored at the marina shall be occupied for more than 60 consecutive days or nights and for no more than a total of 150 days or nights in any one calendar year.

Reason - To ensure that the development does not introduce permanent

residential use of the site which would lead to additional pressure on local services and in the interests of highway safety and to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework.

26. No more than 192 boats shall be moored at any one time in the marina basin hereby approved and no boats, other than those on the water, shall be stored on the site.

Reason - In the interest of highway safety and the visual amenities of the area and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government Advice in the National Planning Policy Framework.

27. A register of all boats moored at the marina, shall be provided annually to the Local Planning Authority, on or before the 30th April of every calendar year, and shall also be made available to the Local Planning Authority on request. The register shall include details of the previous 12 months of boat moorings (1st April to 31st March) at the marina and the following information:

- i. boat owners names and permanent addresses - for all boats moored at the marina in that year;
- ii. boat names and moorings occupied - for all boats moored at the marina in that year; and
- iii. The arrival date and departure date of each boat moored at the marina in that year, stating the period of time that each boat is moored at the marina, including any periods in which any boat is occupied overnight within the marina.

Reason: To enable the Local Planning Authority to properly monitor the use of the site and to ensure that the development does not introduce permanent residential use of the site which would lead to additional pressure on local services and in the interests of highway safety and to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework.

28. The living accommodation hereby approved shall be occupied as a manager's residence solely in conjunction with and ancillary to the operation of the marina and shall not be sold, leased or occupied as a separate unit of accommodation or for any other purpose.

Reason: This consent is only granted in view of the security and management needs of the enterprise, which are sufficient to justify overriding the normal planning policy considerations which would resist residential development on the application site, to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework..

29. The irrigation lake hereby approved shall be used for the purposes of agriculture only and not for any other use (including recreational) unless planning permission has otherwise been granted. The lake shall at no time be stocked with fish.

Reason: The planning application was submitted and determined on this basis. Use for recreational purposes could give rise to such impacts as have not been considered or assessed by the Local Planning Authority including traffic generation and highway impacts. Fish stocking is prohibited to ensure water is

of sufficiently high quality to minimise any risks to Wormleighton Brook in the event of discharge from the overflow.

### **Informative Notes to Applicant**

1. The proposed footbridge should be constructed to DMRB standards, or to Canal and River Trust (C&RT) public towpath standard. This structure must be maintainable by the applicant or C&RT and OCC accepts no liability for its construction, public liability or future maintenance. The footpath/towpath will need to be closed to enable construction and a temporary closure needs to be applied for from OCC. Note that there is normally a 12 week lead time for this. It is expected that the footpath/towpath will be protected from plant damage and repaired to same or higher standard after the works have been completed.
2. **Temporary obstructions.** No materials, plant, temporary structures or excavations of any kind should be deposited / undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes place.
3. **Route alterations.** No changes to the public right of way direction, width, surface, signing or structures shall be made without prior written permission by Oxfordshire County Council or appropriate temporary diversion.
4. **Vehicle access (construction):** No construction vehicle access may be taken along or across a public right of way without prior written permission and appropriate safety/mitigation measures approved by Oxfordshire County Council.
5. **Vehicle access (Occupation):** No vehicle access may be taken along or across a public right of way to commercial sites without prior written permission and appropriate safety and surfacing measures approved by Oxfordshire County Council.
6. **Gates / right of way:** Any gates provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way.
7. **Improvements to routes:** Public rights of way through the site should be integrated with the development and improved to meet the pressures caused by the development whilst retaining their character where appropriate. No improvements may be implemented without prior approval of Oxfordshire County Council. No improvements to public rights of way may be implemented without prior approval of Oxfordshire County Council.
8. The applicants are referred to the principles and standards of the police's Secured by Design (SBD) scheme in relation to the buildings, and to the advice contained within the British Waterway's publication, 'Under Lock and Quay'.
9. The applicant is advised to contact the CRT Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that works comply with the "Canal and River Trust Code of Practice for Works affecting the Canal and River Trust."
10. In respect of condition 6 above the applicant will need to enter into an agreement under Section 278 of the Highways Act 1980 with the Highway Authority prior to work commencing within the highway boundary.

11. The canal here has a large population of zander, a species classified as non-native and invasive, the Trust would require access to the marina with electrofishing equipment for the purposes of zander removal and other fish harvesting. Any fish that migrate into the marina would remain the property of the Trust.

#### Foul drainage

The foul drainage method associated with this development will require an environmental permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at: <https://www.gov.uk/environmental-permit-check-if-you-need-one>.

#### Works affecting main rivers

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk).

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

CASE OFFICER: Shona King / Nathanael Stock TEL: 01295 753754 / 221886