

Application 09/00768/F	No:	Ward: Yarnton, Gosford and Water Eaton	Date Valid: 18 August 2009
Applicant:	MHJ Ltd and Couling Holdings		
Site Address:	OS Parcel 9875 Adjoining Oxford Canal and North of The Gables, Woodstock Road, Yarnton		

Proposal: Proposed 97 berth canal boat basin with facilities building; mooring pontoons; service bollards; fuel; pump out; 2 residential managers moorings; entrance structure with two-path bridge, facilities building with WC's shower and office; 48 car parking spaces and landscaping.

1. Site Description and Proposal

- 1.1 The application site is located to the south east of Yarnton and south west of Kidlington. It is situated and accessed to the north of the A44, adjacent to the western side of the Oxford Canal. The access runs through the existing industrial buildings located at The Gables and the site is to the north of these buildings.
- 1.2 The site has a total area of 2.59 hectares and consists of low lying, relatively flat, agricultural land. There are a number of trees and hedgerows that identify the boundary of the site.
- 1.3 The site is within the Oxford Green Belt, it is adjacent to a classified road and the public tow path, it is within the flood plain, contains BAP Priority Habitats, is part of a proposed Local Wildlife Site and is within 2km of SSSI's.
- 1.4 The application consists of the elements set out above in the 'proposal'. It is not intended that, other than the manager's moorings, these moorings be used for residential purposes. The submission is supported by an Environmental Statement, Supporting Statement and a Design and Access Statement.
- 1.5 **Relevant Planning History**
The current application is the third to be submitted for the same proposal. 08/00762/F and 08/01909/F were both withdrawn. The most recent withdrawn application was not proceeded with as a number of issues remained outstanding and there was insufficient time for these to be resolved. The issues that were not satisfactorily covered in the submission included an assessment of Green Belt policy, highways objections, ecology, landscaping and Environment Agency objections.

Other applications that are worth noting relate to a site adjacent to the canal and to the south of, but not adjoining, the application site. The first (06/01950/F) was for the retrospective change of use of the land from a storage use to a boat yard. The second (08/01408/F), was for the erection of 1.8m timber picket fence and iron gates around site perimeter, installation of crane pad and erection of replacement office building. This was considered appropriate as the fencing and crane pad were not considered to harm the openness of the Green Belt. The office building was considered to be an ancillary building to serve the wider boatyard and the

recreational use of the canal.

2. Application Publicity

2.1 The application was advertised by way of site notice, press notice and neighbour notification letters. The final date for comment was 18 September 2009.

2.2 5 letters of objection have been received. The reasons for objecting include;

- The development would compromise the openness of the countryside and is inappropriate development in the Green Belt. It will result in the erosion of the existing gap between settlements and special circumstances have not been demonstrated
- The green belt and its importance has not been addressed in the submission
- Impact on local environment including the SSSI, Pixey Mead, water voles. Features of ecological importance will be destroyed
- Concern that visitors to the marina will create a more direct route to the shops across the Stratfield Brake sports pitches rather than using the formal footpath
- Signage should be provided to direct walkers around the pitches.
- Surfacing work should be carried out on existing paths as these will be used more frequently
- The development will result in increased litter in and around the site
- It will effect the existing flood plain which will increase problems for the recreation ground and areas of housing in Kidlington
- May result in a boat hire business or proposals for a restaurant which will result in increase traffic movements
- Safety at the access is a concern
- Lighting within the site may result in pools of light which has an urbanising influence
- The bunds alter the contours of the landscape
- The moorings are not residential so will do nothing to relive the pressure on the canal

Amongst the letters of objections were representations from Oxford Preservation Trust, Stratfield Brake Sports and Recreation Ground Management Committee, Oxford Green Belt Network.

2.3 10 letters of support have been received. The reasons for support include;

- Ideal location close to existing boat yard
- Already barges moored up in this location, the number of these needs to be reduced as they currently obstruct access
- It is tucked away from the road, and hidden from view
- It does not compromise Kidlington or Yarnton
- Oxford needs a facility like this as the problem has become more acute by the closure of the moorings at Jericho.
- The basin is not residential therefore it will not impact on local services
- It would improve the area and great use of the canal for the public
- It will be an asset to the surroundings
- There are more boats on inland waterways now than when they were built

and the number will continue to increase

- Marinas bring social and economic benefits to an area
- Many marinas already exist in the Green Belt and they appear more like lakes surrounded by trees, they can encourage wildlife and are environmentally friendly
- The number of buildings proposed is minimal
- Oxford Canal is a gateway to the River Thames and boaters would wish to moor within easy reach and or leave their boats for short periods in close proximity to it
- Development such as this should be supported to encourage a renaissance of the canals
- There is a footpath link to Peartree Park and Ride
- Fuelling and pump out facilities are required in the vicinity of Oxford for local moorers and visitors
- There will be no flooding as the canals are controlled by British Waterways
- The issues raised by Stratfield Brake Management Committee in relation to the paths and litter are issues that could be resolved at any time.
- The sports ground already causes noise and floodlights have been allowed there

Amongst the letters of support were representations from the Inland Waterways Association, the Yacht Harbour Association.

3. Consultations

- 3.1 **Gosford and Water Eaton Parish Council** objects to the application for the following reasons;
- The proposal is in the Green Belt and the need has not been satisfactorily demonstrated
 - The site is within flood plain and the drainage analysis does not prove that the development will not exacerbate existing flood conditions.
 - The adequacy of the parking is questioned
 - The appropriateness of the new highway arrangements is also questioned and traffic movements may be greater than predicted by the developers
 - It is not clear how residential use will be prevented or if boats will be made available for hire
 - The Council does not wish to see Stratfield Brake being used as a route to the shops in Kidlington, if it is to be used then signs should be provided to prevent straying off the paths
 - Use of such a facility and surrounding paths may lead to increase in litter
 - Proposal may effect ecology and there is evidence of water voles in the area.
- 3.2 **Kidlington Parish Council** objects to the application as the siting is contrary to Policy R9 of the adopted Cherwell Local Plan, it is inappropriate development in the green belt and the vehicular access onto the A44.
- 3.3 **Oxfordshire County Council's Highway Liaison Officer** states that that access to the site is substandard in terms of visibility, however, the application has resolved the problem by amending the access to prohibit the right turn in/out and proposes to carry out works to the parking layby on the A44 north of the access to restrict the 'u'

turn.

The proposed marina use, if non-residential, would be a low traffic generator with few movements at peak hours.

The existing commercial /residential uses served by the same access will benefit (in safety terms) from the use of the improved access. The benefit will outweigh the additional risk resulting from the additional vehicular movements associated with the proposed use.

The site is well served by a premium bus route and is located at the junction of cycleways. Summertown is within reasonable cycling distance and supermarkets at Kidlington are 'walkable' along the adjacent public footpath network.

The principle of the vehicular access improvement together with the layby works, as shown on the application drawings is acceptable. The improvement scheme, constructed in accordance with an approved design and S278 Agreement, must be in place prior to the use of the site as a marina.

The principle of the boat access/bridge/ footpath/towpath alterations is acceptable. The access/bridge should be constructed in accordance with an approved design and S278 Agreement. Orders for closure, temporary and permanent, of the footpath/towpath are made by Cherwell District Council and are subject to objection.

The Highway Authority concludes that it has no objections subject to,

- The boats being moored shall not be for residential use
- Prior to first use the access and layby opposite shall be improved in accordance with a scheme to be submitted and approved
- The boat access to the canal, together with the bridge and footpath/towpath diversion shall be constructed in accordance with a scheme to be submitted and approved
- S278 Agreement and Orders to secure the above
- Parking as plan
- The use of SUDS for all hard surfaces
- £20,000 contribution toward the improvement of the public footpath surfacing adjacent to the site.

3.4 **Oxfordshire County Council's Developer Funding Officer** has suggested that if the marina is to provide permanent moorings then contributions should be made towards service infrastructure.

3.5 **Oxfordshire County Council's Archaeologist** has stated that a geophysical survey was attempted on this site as part of pre-application work for an earlier application (08/01909/F) but current ground conditions prevented the area from being investigated. Following this a trenched evaluation was attempted but due to ground water the investigations could not go any deeper than the top of the alluvial cover which would be covering any archaeological deposits. The archaeological potential for this site has yet to be established but is thought to be high based on archaeological features recorded in the vicinity. A condition is recommended should the application be approved.

3.6 **Oxfordshire County Council, as Strategic Planning Authority** has made the following comments.

PPG2 promotes the use of green belt land for providing opportunities for outdoor recreation near urban areas and PPG2 and NSCLP policy GB1 allow for the development in the green belt of essential facilities for outdoor recreation which preserve its openness and do not conflict with the purposes of including land in it. Whilst providing essential facilities associated with the marina (a shower and office block), this application also includes a car park for 48 vehicles. This would impact on the openness of the green belt and undermine purposes of including land in the green belt, particularly the need to preserve the landscape setting of Oxford and to safeguard the countryside from encroachment, contrary to policy CO4 of the SE Plan. The proposed scheme is therefore inappropriate green belt development: it should only be allowed in very special circumstances i.e. where there is an overriding need and lack of alternative sites for the development, or it would bring benefits which outweigh the green belt policy objection. Policy TSR22 of the SE Plan identifies that there is a shortage of moorings throughout the region; however, we have no information in this directorate on the scale of need which should be met in Oxfordshire/Cherwell without commissioning further work. The developer's site search would not appear to be exhaustive in that it concludes this is "probably" the most appropriate location for the marina at the southern end of the Oxford Canal. If minded to permit, the district should be satisfied that there is a need for a marina on the scale proposed which could not be accommodated on an alternative site or there are other benefits which outweigh the policy objection.

Leisure, recreational and tourism strategy: Creating healthy, thriving communities is one of this Council's priorities and a strategic objective of Oxfordshire 2030, with recreation and leisure being central to maintaining a good quality of life. The development of a marina would help promote healthy lifestyles as it would encourage participation in a range of waterway based activities. The development would also be in line with policy TSR2 of the SE Plan which looks to support proposals for upgrading inland waterways and associated facilities for recreational use. The proposed development is adjacent to Oxford and would be likely to bring benefits to the local economy in both Oxford and Cherwell in terms of increased visitor expenditure. Increasing tourism activity would help to foster a world class economy (also a County priority and objective of Oxfordshire 2030) and is in line with SE Plan policy TSR7 which prioritises Oxford as an area for tourism development, indicating that integration of the city's tourism market with inland waterways would encourage longer stays.

Public Rights of Way and Infrastructure – There is no objection in principle. Public rights of way, cycle-tracks and areas of accessible natural green space are significant multi-purpose walking, cycling and horse-riding resources and, particularly on the urban fringe of larger settlements, offer a means of connecting with and accessing the surrounding local countryside and contributing to a healthier population. These resources also support the economy through tourist and visitor-spend on products and services. It is important that the quality of these resources is protected and enhanced to better meet the public's current and future needs. Given the pressure that these routes will be put under contributions are sought to improve infrastructure in line with policy CC7 of the SE Plan.

Minerals and Waste: There is sand and gravel within this site and the application therefore needs to be considered against policy SD10 of the Oxfordshire Minerals

and Waste Local Plan on protection of mineral resources. The quantity of potentially workable sand and gravel is small and the deposit is of relatively poor quality (i.e. clayey); this mineral deposit is therefore not considered to be of sufficient significance to warrant an objection to this proposal on mineral safeguarding policy grounds.

Policy SD10 of The Oxfordshire Minerals and Waste Local Plan - *Mineral resources will be conserved for the benefit of future generations. Development which would sterilise or make the extraction of a mineral significantly more difficult will not be permitted unless it can be shown that the need for the development outweighs the economic and sustainability considerations relating to the mineral resource.*

Archaeology: The archaeological potential for this site has yet to be established but is thought to be high based on archaeological features recorded in the vicinity. The County Archaeologist recommends, should planning permission be granted, the applicant should be responsible for implementing a staged programme of archaeological work in accordance with PPG16 and the Local Plan.

Transport: The comments of the Council as Transport and Highways authority will be sent separately in the normal way. There is no objection in principle as the current application overcomes previous concerns. The proposal is for recreational moorings which would be a low generator of traffic with few peak movements. In sustainability terms the site is within walking distance of the nearest bus stop which is connected to a premium bus route, is around 1km away from Kidlington and its services and is located near to public foot and cycle paths; if the district is minded to permit the permission it should restrict use to recreational leisure use and require the use of SUDs (Sustainable Urban Drainage Systems) for all hard surfaces.

Local members' views: The Local Member, Cllr Michael Gibbard, has raised concerns in relation to the proposed access, and highway safety issues and the impact the development would have in transport terms. Transportation is responding to these issues directly with him.

Conclusion: The canal provides a range of opportunities for leisure, recreation and tourism and the construction of a marina in close proximity to Oxford would increase opportunities to participate in a healthy lifestyle and bring additional visitor expenditure into the local economy. However the proposal is inappropriate Green Belt development, contrary to national policy advice in PPG2 and policy CO4 of the SE Plan. If minded to permit, the district should be satisfied that the applicant has demonstrated very special circumstances which outweigh the policy objection.

RECOMMENDATIONS:

It is RECOMMENDED that the County Council informs Cherwell District Council that:

- a) it supports the development of leisure, recreational and tourism related development which contributes to this Council's priorities and the strategic objectives of Oxfordshire 2030 relating to healthy and thriving communities and development of a world class economy and which is in line with SE Plan policies TRS3 and TRS7.
- b) It objects to the development proposed in application no 09/00768/F as it is for inappropriate development in the green belt contrary to national policy advice in PPG2 and SE Plan policy CO4

- c) If minded to permit, the district should be
- (i) satisfied that the applicant has demonstrated very special circumstances which outweigh the policy objection; and
 - (ii) planning permission should be subject to a s106 to secure contributions to improvements to Public Rights of Way; restrict the use of the marina to recreational leisure use; and require the use of SUDs (Sustainable Urban Drainage Systems) for all hard surfaces.

3.7 In the response from the **Council's Head of Planning and Affordable Housing Policy** the relevant policies are listed and the following comments are made.

Green belt policies - It is noted that under the previous application (08/01909/F) which was withdrawn, it was concluded after researching marina proposals in the Green Belt elsewhere that although the proposal is for a recreation use, the scale and nature of the project constitutes inappropriate development in the Green Belt. As such very special circumstances need to be demonstrated by the applicant to show that the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

The supporting statement to the application uses the results of a national survey on demand and the percentage of users using the Oxford Canal to conclude that there is a need for an additional 468 new berths on the Oxford Canal by 2015. The benefits of the development are cited as being able to meet part of this demand and offering the Oxfordshire economy the opportunity to capture more tourist-based revenue. The applicant states the site is uniquely suited due to:

- Close proximity to inter-regional and intra-regional motorway network
- Close to major tourist destination of the City of Oxford
- It will be an economic catalyst to the future regeneration of the Oxford Canal
- It will capture growing tourist expenditure in central Oxfordshire

Other benefits are given as being relieving congestion on existing linear moorings on the south Oxford Canal and offering secure moorings from vandalism, with modern facilities.

As part of the case for very special circumstances the applicant should demonstrate that there are no other suitable sites available. Whilst a "sequential test" of sites has been included as part of the application this focuses on sites in the southern stretch of the Oxford Canal, the majority of which are also within the Green Belt. The proposal is to serve existing boat owners who use the canal network (rather than for residential moorings or boat hire). The site's locational advantages are cited as offering good access to boat owners, allowing a natural marina to be developed that is more attractive to boat users, offering a rural location with close proximity to the amenities of Yarnton and Kidlington and Oxford City Centre being within easy reach, and the canal linking to the River Thames at Oxford to the Grand Union Canal at Napton. However a strong case has not been made in the submission as to why this particular location is required and why a site in a non-Green Belt location is unsuitable.

The sequential test is also not that comprehensive or consistent: no mention is made of the ecological value of the application site under the environmental column and the power lines in the vicinity of the site at Frieze Farm appear to be as close to

the application site.

The site is currently a low-lying agricultural paddock and the proposal will therefore have some impact on the openness of the Green Belt. Impact on openness does not just consist of the visual impact but also impact on the level of activity in the area, and the additional traffic generated by the proposal will therefore have an effect. The site is also located in the "Kidlington Gap", a particularly narrow and vulnerable section of the Green Belt between Oxford and Kidlington. However the proposed building being single story and the proposed bund surrounding the site together with the nature of the proposals would help to reduce the visual impact.

Recreation policies - The proposal would contribute to the objectives of policy R14 in providing enhanced facilities for canal users but does not comply with policy R16 in that the site is not within or immediately adjacent to a settlement.

Environmental policies - The site is a proposed Local Wildlife Site located within the Lower Cherwell Valley Conservation Target Area and the proposal will lead to loss of BAP habitat. Minor mitigation is proposed but no compensation is suggested for the loss of BAP habitat or connectivity between sites in the CTA.

EIA - In view of the stated need for additional canal boat moorings and the known interest in provision of such facilities elsewhere in the area it is appropriate for the Environmental Statement to take cumulative impacts into account, but this has not been included as part of the submission.

Conclusion - Whilst the proposal would result in improved facilities for canal users in my view a convincing case has not been made as to why the facility needs to be in this location and why a non-Green Belt location is unsuitable. As such on the evidence currently available I do not consider that very special circumstances have been demonstrated sufficient to outweigh the harm that the proposal would cause, principally to the ecological value of the site.

- 3.8 The **Council's Landscape Officer** makes the following comments;
There doesn't appear to have been any systematic evaluation of the scheme for its landscape and visual impact. They claim that there will be little effect without ever analysing it. There isn't any assessment of existing character or quality.

The site is low lying and there is currently limited visibility from the tow path. Views in will be opened up when an access is created onto the canal, although these won't be of major significance. The site isn't visible from the A44. The proposed access seems to run through the existing yard which isn't at all attractive and doesn't form an inviting approach to the Marina.

Landscape impact isn't a major consideration with these proposals unlike the access but I have concerns about the quality of the proposals:

- The Non -technical summary claims they will plant fruit trees, but there are none on the planting plan. They aren't proposing reed beds at all, rather marginal planting.
- The birds eye views show the site without any boats, cars or human activity - totally unrealistic.
- There doesn't appear to have been any consideration of construction phase effects. Nor is there any mention of lighting at night from buildings or boats.

- The design is poor with the basin dominated by a track round the basin and car parking, a few unattractive buildings and a lack of structure within the planting.

Further correspondence between the agent and the Landscape Officer has not done enough to overcome these initial concerns/comments.

- 3.9 The **Council's Rural Development and Countryside Manager** makes the following comments;
Policy R4 of the adopted Cherwell Local Plan states "The Council will safeguard the existing public rights of way network. Development over public footpaths will not normally be permitted." The explanatory Paragraph goes on to say "However, in exceptional circumstances where a satisfactory alternative is proposed the Council may be prepared to accept a diversion."

Policy R4 of the non-statutory Local Plan states "The Council will safeguard and, where possible, enhance the existing public rights of way network. Development over public rights of way will not be permitted unless a suitable diversion can be secured which will not prejudice public rights"

The proposed diversion is relatively small, it seems unlikely that its line would prejudice public rights or cause significant inconvenience to the public. However, the ramped bridge over the marina entrance may be of concern to mobility impaired walkers.

Diversion of FP16 would need to be done with a Public Path Order (PPO) order under s.257 of TCPA'90. This is a separate process to the Planning application, and works affecting FP16 should not be carried out until a PPO has been confirmed.

Temporary closure of the path during the works would be dealt with under a separate procedure by OCC.

The agent supplied the following information in relation to the proposed footbridge;
The design was carried in accordance with the Disability Discrimination Act and building regulations and is similar to a tow path bridge recently constructed at Mercia Marina. The slope is 1:20. The surface is compacted scalping with a crushed stone dressing. This detail is considered acceptable.

- 3.10 The **Council's Environmental Protection Officer** states that records show a small historical pond which has been in-filled approximately 220 metres to the south east and a historical canal wharf 200 metres to the south of the development. There are no other potentially contaminative sources on the site. A planning informative is recommended in the event of approval.
- 3.11 The **Council's Head of Recreation and Health** states that Oxfordshire Narrowboats at Lower Heyford have a thriving business and is unsure that there is sufficient business to support another development of this size between Oxford and Banbury. A development in Banbury or between Banbury and Cropredy would be of greater benefit.
- 3.12 The **Council's Ecology Officer** makes the following comments;

Protected species: The mitigation plan proposes a pre-works survey of water voles prior to development work commencing. It should be pointed out that there are optimum times for surveying water voles and that a mitigation plan including proposed timings of works should be agreed prior to any permission given. The 2008 survey confirmed evidence of water vole burrows within the area to be affected by works. Along with our records along that stretch of canal their presence should be presumed. The proposals for the new banks could offer an enhancement for water voles if appropriately managed - an ongoing management plan for the site should be included with review periods built in to accommodate any changes which may need to be made in the future as any established habitat matures.

From a previous site visit I suggest that the mature tree to be removed along the canal may have potential to support bats and needs to be checked for this prior to removal. Any hedge sections or trees should only be removed outside of the bird breeding season.

Habitats: Sections of hedgerow to be removed may come under the Hedgerow Regulations 1997 (this only appears to have been assessed at a general level in the ecological surveys). Hedgerows are UKBAP habitats and therefore any parts to be removed should be replaced as far as possible with a native species mix to maintain this level of habitat. Woodland planting on site should use native species of local provenance where possible and those which are typical of the area - particularly important on this sensitive site.

The site itself is an important UK BAP priority habitat coming under Floodplain grazing marsh (it also comes under the Cherwell BAP 2005-2010). We have an obligation therefore to maintain and enhance these habitats and support their recreation and sympathetic management where possible. I'm not convinced that the current plans for turf removal and reestablishment will be successful as the hydrology and topography of the site will have changed following the removal of the ditch and construction of embankments. However even if successful reestablishment of some of the grassland interest is achieved the proposed works still represent a significant loss of this habitat type overall. As the NVC survey carried out this summer was inadequate and permission has not been achieved to assess the sites LWS status it should be assumed that the site qualifies as an LWS with sufficient botanical interest. We therefore have an obligation under PPS9 to conserve these sites and look for opportunities to enhance them. The aims of the Conservation Target Area within which this site falls are to manage and restore lowland meadows and wet grassland, therefore the proposed works would be contrary to the achievement of these aims for this area. Is there any potential for off-site habitat creation as compensation?

- 3.13 **Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust** objects to the application on the grounds that the proposals would have significant negative impacts on biodiversity. In summary, the site is a proposed Local Wildlife Site which supports UK BAP priority habitats. The surveys submitted are not adequate and there is insufficient information to assess the site against the Local Wildlife Site criteria. Whilst some retention of turfs to be used on embankments has been proposed to help mitigate the loss of the majority of BAP priority grassland habitat. Changes in the hydrology of remaining areas of grassland as a result of the proposals may also impact negatively on their botanical interest. The proposals are therefore contrary to policy which protects BAP priority habitats and Local Wildlife

Sites. The site falls within the Lower Cherwell Valley Conservation Target Area; this is one of 36 areas identified across the County as being a strategic area for focusing conservation effort in order to assist in the delivery of National Biodiversity Action Plan (BAP) targets.

After further communication between BBOWT and the agent for the application the agent has suggested conditions in relation to providing a habitat restoration and management scheme. However, confirmation has not yet been received from BBOWT as to whether these are sufficient to overcome their concerns.

3.14 **Natural England** objects to the proposal for the following reasons;

- Insufficient information to determine the effect on the Oxford Meadows SAC and further information is needed in relation to the effect of the development on the water regime, including water flows and quality of Kingsbridge Brook to the west of the development , and therefore the hydrological effect on the SAC and SSSI.
- Impact on Pixey and Yarnton Meads SSSI
- Whilst the proposal is not directly connected with or necessary to the management of the site in order to advise whether it is likely to have a significant effect on a European site the applicant should provide a hydrological report which assesses the effect of the development on the water regime, including water flows and quality of Kingsbridge Brook.

After further communication between the agent and Natural England there is still concern that as the Kingsbridge Brook is directly connected to the SSSI and SAC there is potential for significant negative effects on the designated site as a result of changes to the water regime.

3.15 **The Environment Agency** has not provided a full response as the FRA requires an assessment of the modelling and these files have not yet been provided by the agent/applicant.

3.16 **British Waterways** has made the following comments (in summary)

- The well screened tree and hedge line on the northern and most of the western boundary and this together with the additional planting, will add more ecological value compared with the site currently.
- The design of the marina is aimed at being low key, maximising landscaping and ecological potential in this part of the Green belt.
- There are other marinas in the Green belt that do not prejudice the openness of the Green Belt.
- The applicant has pointed out the demand for such basins and British Waterways endorses this.
- Marinas are needed to reduce congestion on the main canal and provide security and facilities for boaters.
- The canal is a fixed asset and marinas have very specific requirements including geology, topography and need sufficient water and to be safely located for navigation.
- There is a limited choice of location for such facilities.
- The application shows that there are very few potential alternative sites for a similar basin on the southern section of the Oxford Canal.
- Thames Water supports the application and requests the inclusion of an

informative if the application is approved.

- 3.17 **Thames Water** has no objections with regard to water infrastructure. Given the proposed method of treating domestic waste water there is unlikely to be any impact on the public sewerage system. However it is recommended that if the application is approved a condition be included to require petrol and oil interceptors to be fitted to parking facilities.
- 3.18 **London Oxford Airport** raises no objections to the proposal but states that the development is proposed close to a busy operational airport and could be subject to aircraft noise and high structures may require a safeguarding study.
- 3.19 **Thames Valley Police Crime Prevention Design Advisor** is concerned about access to the site from the towpath and the new footbridge. Moored boats and parked cars can be at risk. The developers have described a mixture of fencing and defensive planting being used and there is no intention of allowing public access into the marina from the towpath or bridge. A condition is required to ensure the site is satisfactorily secured should the application be approved.

4. Relevant Planning Policies

- 4.1 Adopted Cherwell Local Plan
GB1 – Development in the Green belt
GB2 – Change of use of land within the Green Belt for outdoor recreation
H26 – Residential canal moorings
C1 – Protection of sites of local nature conservation
R7 – The Oxford Canal
R9 – New facilities for canal users
- 4.2 Non-Statutory Cherwell Local Plan
GB1 – Development in the Green Belt
GB2 – Change of use of land within the Green Belt for outdoor recreation purposes
H28 – Residential canal moorings
R14 – Protection and enhancement of the Oxford Canal and River Cherwell through the control of development
R16 – New facilities for canal users
EN24 – Protection of sites and species
- 4.3 South East Plan
SP3 – Urban focus for development
SP5 – Green Belts
CC1 – Sustainable development
CC8 – Green infrastructure
C5 – Rural-urban fringe
TSR2 – Rural tourism
TSR7 – Priority areas for tourism
CO1 – Core strategy
CO4 – Green Belt
NRM5 – Conservation and improvement of biodiversity

4.4 National Policy

PPG2 – Green Belts

PPS9 – Biodiversity and Geological Conservation

PPG17 – Planning for Open Space, Sport and Recreation

- 4.5 The Council's **Tourism Strategy** highlighted the Oxford canal as being an underused resource, particularly in Banbury, but other than that is not locationally specific.

5. Appraisal

- 5.1 The main issues to consider in the assessment of the application are;

- Green Belt Policy
- The demand for marinas and location
- Visual impact
- Highway Safety
- Ecology, hydrology and flooding
- Other issues

5.2 **Green Belt Policy**

PPG2 states that there is a general presumption against inappropriate development within Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless harm by reason of inappropriateness, and other harm, is clearly outweighed by other considerations. It goes on to state that the construction of new buildings inside a Green Belt is inappropriate unless it is...essential facilities for outdoor sport and outdoor recreation...and for other uses of land which preserve the openness of the Green belt and which do not conflict with the purposes of including land in it.

Policy GB1 of the adopted Cherwell Local Plan reflects the guidance above. Policy GB2 of the same Plan specifically relates to outdoor recreation and states that, the change of use of land within the Green Belt for outdoor recreation purposes will normally be permitted provided:

- (i) there is no overriding agricultural objection;
- (ii) the visual impact on the rural landscape is not unduly harmful;
- (iii) there is no conflict with other policies in this plan.

Planning permission for new buildings related to such uses will only be granted if they are small in scale and it can be demonstrated that they are essential and ancillary to the use of the land and can be located unobtrusively.

The submission acknowledges that the site is within the Green belt and states that 'the marina is recreation and will preserve the openness of the green belt' and 'it will satisfy the qualifications in GB2 and the buildings will be as small as possible to fulfil the function'. It also gives 5 examples where marinas have been approved in the Green Belt and states that this indicates a precedent of marinas in the Green Belt. It also provides information relating to the national and regional demand for moorings and a sequential test relating to the flood risk assessment.

What the submission fails to do is consider whether or not the proposal constitutes inappropriate development in the Green Belt. The submission fails to fully assess

and explain any link between Green Belt policy, demand for moorings and the results of the sequential test. By virtue of the fact that the information detailed in the above paragraph has been included in the submission suggests that the applicants consider that a marina is an appropriate form of development in the Green Belt. This may go some way to explaining why there is no direct reference to 'very special circumstances' to justify the development.

Whilst the proposed facilities building, waste disposal building and fuel containers may be essential and the minimal required for the function of the marina, this is not considered sufficient justification as they are not essential for an existing recreational function but only necessary to serve the proposed marina which also has to be considered against Green Belt Policy.

The proposal involves the creation of a large body of water, the regrading of the landscape, the creation of bunds and laying of hard standing for up to 48 cars. Whilst some of these physical changes may not have an adverse impact on the openness of the area the reality is that up to 97 canal boats and 48 cars could be present in the marina at any one time and it is the impact of this that is likely to have an adverse effect on the openness of the Green Belt. This would therefore constitute an inappropriate form of development.

The proposal also consists of 2 berths for residential purposes to accommodate managers. This is tantamount to the introduction of new dwellings in the Green Belt which in itself is contrary to Green Belt Policy.

Whilst the submission does not directly refer to very special circumstances it is possible to consider the demand for new moorings and locational constraints to assess whether there may be a justification for allowing inappropriate development in the Green Belt.

5.3 **The demand for marinas and location**

The submission states that there is a nation wide demand for 11,700 new berths by 2015 and that demand is likely to be highest on the top ten canals, of which the Oxford Canal is number 7 in the rankings. The submission goes on to state that there is a need for a further 468 berths on the Oxford Canal by 2015. The need for off-line moorings and marinas along the Oxford Canal is not disputed and is in fact supported by British Waterways and other recreational bodies. However acknowledging that there is a demand does not mean that all proposals that contribute to this demand should be approved. The appropriateness of the location is an important consideration.

There are Local Plan and South East Plan policies that support and encourage development that contributes to the continued use of the Canals. For example R7 of the Cherwell Local Plan states that through the control of development the Council will seek to protect and enhance the recreation roles of the Oxford Canal and River Cherwell. However Policy R9 then states that with the exception of appropriately sited small car parks and picnic areas, new facilities for canal users will normally only be permitted when they are located within or immediately adjacent to settlements. This site is not considered to be adjacent to a settlement as three dwellings and commercial premises do not constitute a settlement. The policy seeks to ensure that new canal developments of this nature are located within or adjacent to settlements so that they are accessible to local amenities and have a

minimal impact on the open countryside. Therefore the proposal does not comply with this local plan policy.

Whilst the application is supported by a sequential test, submitted for the purposes of the flood risk assessment, it is recognised in the comments from the Council's Head of Planning and Affordable Housing Policy that it is inconsistent and not comprehensive. It does not demonstrate why there is a particular need for a marina in this specific location as opposed to alternative sites outside the Green Belt and located in or adjacent to settlements. For example, more suitable sites include the potential for a marina as part of the Bankside development or Canalside redevelopment.

5.4 Visual impact

The site is already partially visible from the towpath as the boundary trees and hedges do not provide a solid screen. This will continue to be the case until new vegetation is established. The inlet to the marina and new footbridge over the inlet will be obvious additions to the area. Glimpses of the marina and associated parking, bunds and building will also be achieved from the footpath over Kings Bridge/A44. Longer distance views from other public paths and roads will not be easily achieved. This means that the proposal is therefore unlikely to have a significant adverse impact on the wider landscape and only have a localised visual impact. Given the nature of the development the creation of an open area of water is unlikely to have an adverse visual impact and the use of this water by canal boats is not out of character with the area but the overall mass of moored boats and parked cars and the manmade structures associated with the function of the marina will result in some harm to the landscape. The fact that landscape impact is not in itself a significantly detrimental factor does not alter the view that the proposal constitutes inappropriate development in the Green Belt that affects the openness of it.

It is also considered that the proposed development has not sufficiently considered the layout and landscaping of the site (see the Council's Landscape comments above).

5.5 Highway safety

The site is to be served by an existing access off the A44. The access currently serves a group of three dwellings and commercial premises. The speed limit along this road is 60mph and the access is located on a slight bend and on a gradient reducing in height from the canal bridge. The current access does not meet vision standards and is also substandard in relation to construction, geometry, gradient and width. Earlier submissions failed to adequately deal with these issues. However the scheme has been amended to prohibit right hand turns into and out of the site. This is proposed by altering the layout of the junction and installing a bollard and 'island' arrangement with additional signage.

A further concern was raised by the LHA in relation to the potential to use the informal lay-by opposite the site to carry out u-turns. The plans include alterations to this lay-by to discourage u-turns and require vehicles to use the roundabouts to change direction.

The application states that the proposal is for recreational moorings, with the exception of two managers residential moorings. Therefore this results in fewer

overall traffic movements and less peak time movements than if the proposal was for residential moorings. This also removes the requirement for contributions to infrastructure other than highways contributions.

To control access into the marina and prevent unauthorised access it is intended to install electric gates at the entrance of the marina.

In response to these proposed measures the Highway Authority raise no objections to the proposal therefore in relation to highway safety the proposal is considered acceptable. However if the application were to be approved contributions to highway improvements would need to be secured.

5.6 **Ecology, Hydrology and Flooding**

Comments from Natural England and BBOWT raised concerns about the impact of the proposal on sites of ecological interest. Particular reference is made to impact on water voles and the need for mitigation and ongoing management plans. The ES acknowledges that a water vole mitigation strategy should be developed but there is no detail as to what this may involve.

The developer's ecologist has suggested methods of transplanting turfs of species rich grassland to mitigate against the loss of important ecological features. However further comment in relation to this has not yet been received from Natural England or BBOWT.

The agent is seeking to resolve these outstanding issues and updates will be provided if further relevant progress is made.

In relation to BAP habitats, PPS9 states that:

Through policies in plans, local authorities should also conserve other important natural habitat types that have been identified in the Countryside and Rights of Way Act 2000 section 74 list, as being of principal importance for the conservation of biodiversity in England and identify opportunities to enhance and add to them'.

The submission fails to demonstrate that the identified habitats will be enhanced by the development.

The Environment Agency has not been in a position to provide detailed advice on the matter as they required modelling information which to date has not been provided.

5.7 **Other relevant issues**

Environmental Impact Assessment (EIA)

The proposal was previously screened in 2006 and it was concluded that, at the time, the development did not constitute EIA development therefore an Environmental Statement was not required. However, when reviewing this position in relation to the current application it was determined that an Environmental Statement was required. This was due to the fact that as well as the development exceeding the relevant thresholds and it being in a sensitive area the site has also been designated as being within a UK Biodiversity Action Plan (UKBAP) priority habitat, a Local Wildlife Site and the Lower Cherwell Conservation Target Area (CTA). An Environmental Statement (ES) was submitted to support the application.

Circular 02/99 – Environmental Impact Assessment and DETR Guide to Procedures (2000) sets out what information should be included in an ES and a checklist of matters to be considered for inclusion. This sets out that an ES should include, at least the following information (in summary);

- a description of the development
- a description of the measures envisaged in order to avoid, reduce and if possible, remedy significant adverse effects
- data required to identify and assess the main effects which the development is likely to have on the environment
- the main alternatives studied by the applicant or the main reasons for choice, taking into account the environmental effects
- a non-technical summary.

Whilst the submitted ES attempts to deal with individual issues in relation to ecology, flooding, highway safety etc there is no detailed assessment of the environmental effects that demonstrates direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project. The submitted ES is simply a collection of independent reports with little or no elaboration or explanation on the overall environmental effects. There are examples in the ES where conclusions have been reached with no supporting information submitted to justify the conclusion. For example on page 10 of the ES it states that ‘the Land and Visual Impact Assessment show the proposed marina will have no adverse visual impact on its most immediate receptors, including the nearby A44’. However, no Land and Visual Impact Assessment has been submitted and the receptors have not been listed.

The purpose of the EIA process is to establish the likely effects of a proposal and for the ES to set out the required mitigation measures to overcome these potential effects. Case law has determined that it is not appropriate to delay the formation of mitigation measures and allow this to be resolved through conditions. In this case, if the application were to be approved based on the information submitted there would be a requirement to condition mitigation and management details to be submitted therefore the ES also fails to meet the EIA requirements on this basis.

Having assessed the submitted ES against the guidance relating to EIA it is considered that it is inadequate. The guidance states that where the developer fails to provide enough information to complete the ES the application can be determined only by refusal.

Supply of water

One consideration that officer's thought relevant is the supply of water into the marina and the impact this has on the overall amount of water in the canal. British Waterways has clarified this and has explained that the water is allocated to new canal marina developments on a case by case basis and developers usually check there is sufficient supply prior to submitting formal proposals for planning approval. If a scheme is not permitted or not built within a certain time frame British Waterways can then allocate the water to other developments.

The scheme also seeks to demonstrate that there is a sufficient supply of water in relation to lockage and water demand.

Detail of the submission

A boat marina could consist of both recreational and storage functions. Whilst the submission states that the marina is for recreational purposes it is not clear exactly how it will be run and what controls there will be in relation to the period of time boat owners could remain in the marina with their boats. The submission refers to the fact that 'boaters and overnight visitors will be able to access the toilets and showers in the marina facilities' and the 'aim is to produce a marina that is environmentally pleasing so that boaters are just as happy staying on their boats as they would be plying the canal'. This implies overnight stays in the marina. Whilst the Highway Authority has not objected to the proposal and has stated that a non-residential marina will be a low traffic generator, there is potential for greater traffic movements in and out of the site if boat owners remain on their boats in the marina for more than one night, as they may require provisions from nearby shops. It is not clear from the submission or consultation responses if the potential for consecutive overnight stays has been considered.

5.8 **Conclusion**

Given the above assessment it is not considered that the submission demonstrates that there are any special circumstances that outweigh the principle issue that this is inappropriate development in the Green Belt. Furthermore the proposal has not been supported by an adequate ES to comply with the EIA regulations and adverse impacts on biodiversity and flooding have not been fully considered nor adequate mitigation measures proposed. Therefore the proposal is recommended for refusal for the reasons set out below.

6. Recommendation

Environmental Statement

Regulation 21 of The Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999 requires that where an EIA application is determined by a local planning authority the authority will inform the secretary of state and the public of the decision. The authority must also make available for public inspection the content of the decision and any conditions, the main reasons and considerations and a description of the main measures to avoid, reduce and off set adverse impacts.

It is therefore recommended that this report (minus the summary of consultation responses) and the reasons for refusal are approved as setting out the main reasons and considerations with regard to the ES to comply with the requirements of Regulation 21 of The Town and Country Planning (Environmental Assessment)(England and Wales) Regulations 1999.

Planning Application

Refusal for the following reasons;

- 1. The site is within the Green Belt and detached from existing settlements and the proposed development is not considered to be appropriate development as set out in Planning Policy Guidance Note 2 and the adopted Local Plan. The development will be prejudicial to the openness of the Green Belt and no special circumstances have been demonstrated to outweigh the harm caused. Therefore the proposal is contrary to Policy GB1, GB2 and R9 of the adopted Cherwell Local Plan, GB1, GB2 and R16 of the non-statutory Cherwell Local**

Plan, SP5 of the South East Plan and PPG2.

- 2. The Environmental Statement accompanying the application is unsatisfactory in that it is not explicit in terms of the scale and scope of the proposal or the impact of the development and the effects on the environment.**
- 3. The proposal does not include a satisfactory Flood Risk Assessment and as such it has not been demonstrated that the site would not be affected by flooding or result in flooding elsewhere and as such is contrary to the advice in PPS25.**
- 4. The proposal fails to adequately demonstrate that harm will not be caused to areas of BAP priority grassland, protected species or the nearby SSSI and Special Area of Conservation. The proposal is therefore contrary to Policy C1 of the adopted Cherwell Local Plan, Policy EN24 of the non-statutory Cherwell Local Plan, Policy NRM5 of the South East Plan and PPS9.**
- 5. The proposed development generates a need for financial contributions for highways improvements, which in the absence of a satisfactory planning obligation, would not be adequately met and as such is contrary to Policy CC7 of the South East Plan and Policy TR4 of the Non-Statutory Cherwell Local Plan.**

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