**Planning Committee:** 09 June 2010 **Item Number:**

**Application No:** W 10 / 0135

**Registration Date:** 09/02/10

**Town/Parish Council:** Lapworth **Expiry Date:** 06/04/10

**Case Officer:** Martin Haslett
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**Land adjoining Grand Union Canal, Black Boy Public House, Knowle, Solihull**

Construction of new canal side moorings and spreading of spoil onto adjoining land. FOR Mr E Flaherty

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**SUMMARY OF REPRESENTATIONS**

**Lapworth Parish Council:** No objection

**Public response:** 4 letters of objection have been received, from local residents and the Black Boy Cruising Club who moor on an adjacent part of the canal. Objections are raised on the following grounds:

- inappropriate commercial use of the green belt;
- change in character of area;
- inappropriate access and concern over service vehicles entering site;
- proposal would introduce lights and noise into a tranquil area;
- detrimental impact on neighbours;
- need for off-line moorings questioned, existing boaters would be forced off-line;
- question whether site is secure;
- parking proposed outside site boundary.

A more distant resident is concerned that the footpath should remain open during and after the works, given that its route would appear to be affected. Additional styles and gates may be required.

**WCC(Highways):** no objection, subject to parking being made available at the public house.

**WCC (Public footpaths):** public footpath lies within site, and this shall remain open through construction process. Access to footpath area to be controlled by condition. No trees to be planted within 5m of public footpath.

**WCC (Archaeology):** no objection, subject to pre-commencement archaeological survey.

**Warwickshire Wildlife Trust:** initially concerned that sufficient ecological information is submitted to satisfactorily assess the application. Combined ecology and landscape plan recommended. Care needs to be taken with badgers and nesting birds. The additional surveys were subsequently carried out.

**British Waterways:** no objection. There is a national shortage of secure offline moorings and forecasts suggest that boat ownership will grow steadily .'The

location of the proposed development would not generate any navigational safety issues..... Furthermore, from information provided by the applicant and detailed assessment of water resources and boat traffic modelling in this locality, British Waterways can confirm that the local waterway infrastructure will be able to accommodate the proposed new development. In the light of these detailed assessments and the reasons cited above, British Waterways supports the proposed development as a navigation authority.'

**WCC (Ecology):** The County ecologists have reviewed the reports submitted with the application and have requested additional reports to provide further information on habitat, great crested newts, reptiles and badgers. Following receipt of the additional information, there is now no objection to the proposals, subject to conditions on lighting, landscaping (and ecological management), a pre-commencement badger survey, a reptile watching brief and tree protection during construction. Notes on birds, badgers, water voles/otters and white claw crayfish are recommended.

**Environment Agency:** no comment received.

**Solihull MBC:** no comment received.

## RELEVANT POLICIES

- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- RAP13 - Directing New Outdoor Leisure and Recreation Development (Warwick District Local Plan 1996 - 2011)
- DAP1 - Protecting the Green Belt (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)

## PLANNING HISTORY

A previous similar application (W09/0815) was withdrawn in favour of the current application so that more supporting information could be submitted.

## KEY ISSUES

### The Site and its Location

The site is a section of the Grand Union Canal, north of Bakers Lane, and reached by road through Solihull District, through the access to the Black Boy public house. The site is a grassed field, gently sloping down to the canal, with scrubby undergrowth along the canal bank. On the other side of the canal from the proposed development, there are existing moorings. There is a traditional canal bridge leading from the pub access road across the canal to the site, which has a field access onto the lane.

To the north of the site, on the other side of the canal bridge, the public house has gardens reaching down to the canal and on the other side of the canal there are further moorings.

The pub has extensive areas of surfaced car parking on either side of its access road. None of these is within the planning application site, although one is suggested as parking to support the current proposal.

**Details of the Development**

It is proposed to construct a mooring area alongside the canal, with a single access point to it. This mooring area would be about 10m wide and 200m long, separated from the canal by a berm with a minimum of 12m distance between the proposed moorings and the canal. The facility could provide 15 fifteen metre long moorings and 5 twenty metre long moorings. These boats would not be used for overnight accommodation.

The spoil from the excavation of the moorings would be spread over the wider site, and given the size of the deposit area, would mean an increase in levels of just 65mm. There would be no other development and, crucially, none of the ancillary facilities commonly found at marinas. The remaining part of the site would then be planted as woodland- an action which does not require planning permission.

The application is supported by ecological reports, including additional ones requested by the County Ecologist.

The work of excavation would be carried out by a single vehicle, which would need to gain temporary access from Bakers Lane. As the material is to be distributed across the site, there would be no off-site vehicle movements.

**Assessment**

**Policy considerations**

Control of development in green belts needs to take account of the purpose of their designation, as set out in PPG2 *Green Belts*. These are, principally, to provide access to open country and for outdoor recreation, to retain and improve landscapes, to protect nature conservation and to retain land in agricultural, forestry and related uses. The fundamental intention of these policies is to keep land permanently open, as the most important attribute of green belts is their openness.

I think it is significant that the current proposals do not involve the erection of any buildings, simply the creation of an additional mooring area. Apart from the addition of the moored boats, there would be no impact on the openness of the area and the objectives of green belt policy would therefore be met. In this respect the current application is different from proposals for marinas, which

include ancillary buildings and services, which fall outside the categories of new buildings which are allowable in green belts.

Nevertheless, the development is not one of the categories of development set out in the PPG which is appropriate in the green belt, and that the development therefore constitutes 'inappropriate development.' In this respect, PPG2 states:

'Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.'

In the current case, the proposal is comparatively small in area and the visual impact will also be small. The 'harm' to the green belt would therefore, in my opinion, be slight. To outweigh this harm, we have to take into consideration the following facts: it is known that there is a shortage of moorings and that British Waterways support off-line facilities. It is also known that it is difficult to find suitable locations for additional moorings and, therefore any perceived failings of the current location have to be set against these matters. Furthermore, the current site benefits from the use of an existing access road, the proximity of the pub and the use of existing parking facilities and the spoil would not need to be taken off-site. The creation of woodland, although not part of the application, would have habitat benefits. I therefore conclude that there are 'very special circumstances' which clearly outweigh the very small amount of harm to the green belt that would occur.

Policy RAP13 of the Warwick District Local Plan 1996-2011 sets out criteria for Outdoor Sport and Recreation development. Small development (such as this) should be within or adjacent to settlements and should meet the needs of local communities. Applications for uses in open countryside should form part of farm diversification proposals, or where other sites are not available.

The justification for the policy goes on to state that small scale recreation facilities, which do not generate large numbers of participants, may be acceptable outside of the urban areas and their fringes, 'where they are of a scale and nature appropriate to their rural location.' The justification goes on the state, 'Small scale mooring facilities are likely to be appropriate in the rural area.'

In terms of local plan policy, considerable support to the proposal is given by policy RAP13, which indicates that moorings, without all the other paraphernalia of a marina, are likely to be appropriate in the rural area. Although not immediately adjacent to an urban area, the adjoining pub does provide some services and consists of a substantial group of buildings, which might be used by the boaters.

In terms of sustainability, which is one of the concerns behind the wording of policy RAP13, it is unlikely that boaters would come to the site by any means other than the car, unlike to a sports pitch or golf facility, for which bus or coach could be used. The location of this site somewhat away from the urban areas is therefore less significant in these terms.

From all there considerations, I conclude that no objection to the proposal should be raised on policy grounds.

**Other issues**

The other issues which need to be addressed are the impact on the canal, on neighbours and on wildlife. The access to the site and car parking are also important.

So far as the impact on the canal is concerned, British Waterways encourage the provision of off-line moorings nationally. This is because the steadily increasing use of canals is leading to congestion which off-line moorings help to alleviate. In the current case, British Waterways have requested a re-design of the project, which has been agreed by the applicants, in order to meet their requirements. They have examined all other aspects of the proposal from their point of view and have raised no objection to the proposal.

Other than the public house, there are no immediate neighbours to the scheme. The nearest are some properties in the eastern part of Bakers Lane (in Solihull MBC) which have plots leading down to the canal bank, on the other side of the canal from the development and at some distance from it. Whilst it must be recognised that the construction phase may cause some disturbance, I think it unlikely that the operation of the canal moorings would prove detrimental to the adjoining residents.

The wildlife aspects of the proposal were covered in reports which accompanied the application. The County Ecologist has requested additional survey reports, which have been submitted, and recommends conditions to cover further ecological issues. In particular a pre-commencement badger survey is recommended, despite the fact that the badger reports already submitted did not reveal any significant issues. This is done because badgers are very mobile and the situation could have changed by the time the work commences. Subject to the conditions and notes recommended, the Ecologist has no objection to the proposal.

The remaining issue is that of access and car parking. The County Highways authority have no objection to the use of the access to the pub to serve the current development, nor to the use of the existing car parking at the pub to serve the moorings proposed. Vehicles would not normally need to proceed beyond the car park. The car parks are extensive and are clearly of sufficient size to accommodate the additional cars, but are not included within the application site. The applicant has therefore agreed that this matter could be dealt with by means of a legal agreement or undertaking (as appropriate) to ensure that this part of the project takes place. Off-site works or uses can only be controlled by legal means and cannot be conditioned.

I therefore conclude that all the requirements of this planning application would be met when a legal agreement/obligation is in place and therefore recommend the proposals for permission.

**RECOMMENDATION**

After the signing of a legal agreement/obligation, GRANT, subject to the conditions listed below.

**CONDITIONS**

1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 No development shall take place until the applicant has secured the implementation of a written programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the District Planning Authority. **REASON** : To ensure any items of archaeological interest are adequately investigated, recorded and if necessary, protected, in order to satisfy the requirements of Policy DP4 of the Warwick District Local Plan 1996-2011.

3 No development shall be carried out on the site which is the subject of this permission, until details of a barrier adjacent to the canal bridge to prevent vehicles entering the site, with a pedestrian gate to accommodate the footpath (provided to a specification approved by the Countryside Access Team of WCC) have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** :To protect the integrity of the public footpath network.

4 No development shall be carried out on the site which is the subject of this permission, until details of pre-commencement badger survey (and any mitigation necessary) have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect badgers, in accordance with policy DP3 of the Warwick District Local Plan 1996-2011.

5 No development shall be carried out on the site which is the subject of this permission, until details of the arrangements for the retention and restitution of the top soil over the area of spoil deposit have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the character and appearance of this area of green belt, in accordance with policy DAP1 of the Warwick District Local Plan 1996-2011.

6 The development hereby permitted shall not commence unless and until two weeks' notice in writing of the start of works has been given to a suitably qualified ecologist appointed by the applicant to supervise all ground work elements of the development within the site, which should

include pre-construction precautions. Should reptiles be found to be present within the site, the development hereby permitted shall submit a detailed schedule of reptile mitigation measures (to include habitat creation and monitoring) has been submitted to and approved in writing by the District Planning Authority. Such approved mitigation measures shall thereafter be implemented in full. **REASON** : To ensure that protected species are not harmed by the development.

7 No lighting shall be installed on the site. **REASON** : To protect the appearance and character of the green belt, in accordance with policy DAP1 of the Warwick District Local Plan 1996-2011.

8 The existing trees and shrubs shall be retained in accordance with BS 5837:2005 and shall not be felled, lopped, topped or pruned without the previous written consent of the District Planning Authority. Any trees removed without consent, or dying or being severely damaged or becoming seriously diseased within five years of planting, shall be replaced with trees of such size and species as may be agreed with the District Planning Authority. Before any materials are brought on the site or any demolition or development commenced, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch spread of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.

9 The boats moored in the facility shall not be used for overnight accommodation. **REASON** : To protect the character of the green belt, in accordance with policy DAP1 of the Warwick District Local Plan 1996-2011.

**INFORMATIVES**

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development does not prejudice the openness and rural character of this green belt area and is considered to comply with the policies listed.

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