

Application No: 14/1579N

Location: LAND NORTH OF, CHOLMONDELEY ROAD, WRENBURY FRITH

Proposal: 2.37 hectare 200 berth marina basin with pump out facilities, lighting and landscaping, fuel pump and storage, waste pump out; a new canal connection to the Llangollen canal with new tow-path bridge over canal connection; a main sewer connection; a facilities building to include the following incidental/ancillary uses; boat hire/time share and brokerage; management offices, toilets, showers and laundry block and cafe with retail space and public toilets; chemical effluent and household waste recycling facilities; and existing site access onto Cholmondeley Road to be upgraded to highways standard to serve a new internal road to car parking and services areas; diversion and enhancement of public footpath no. 3, wildflower meadow and bat/barn owl tower (Resubmission of 13/4286N)

Applicant: David Young

Expiry Date: 23-Jun-2014

## **SUMMARY RECOMMENDATION REFUSE**

### **MAIN ISSUES**

- Principle of Development
- Sustainable Development
- Loss of Agricultural Land
- Impact upon the Landscape
- Highway Safety
- Amenity
- Trees and Hedgerows
- Heritage and Design
- Ecology
- Flood Risk

## **REASON FOR REPORT**

The application is to be determined by the Strategic Planning Board as the proposal is for a large scale major development (the site area is approximately 5.6 hectares).

## **DESCRIPTION OF SITE AND CONTEXT**

The application site measures 5.68 hectares, is irregular in shape and comprises four fields of gently undulating pasture land bisected by hedgerows and sandwiched behind the properties along Cholmondeley Road (between the Cotton Arms PH and St Margaret's Church) and the canal towpath of the Llangollen Branch of the Shropshire Union Canal (between Wrenbury Church Bridge and Wrenbury Lift Bridge).

There is a public footpath bisecting the site N to S from Wrenbury Church Bridge to St Margaret's Church.

The existing access gate to the field and proposed access track are located within the Wrenbury Conservation Area with the entire site located within the open countryside.

The site lies adjacent to the settlement boundary of Wrenbury with all of its shops and services and 65m away from a branch of the River Weaver although it is not within an area of flood risk.

## **DETAILS OF PROPOSAL**

In summary, the proposals relate to the construction of a 2.37ha marina with associated facilities including a facilities building, car parking, access and landscaping.

In detail, it involves the following works:

1. Construction of a 2.37ha 200 berth marina basin to a depth of 1.4m with pump out facilities, lighting and landscaping, fuel pump and storage and waste pump out. Moorings will be provided by the construction of steel piled timber jetties. The edge treatment will also be a geotextile with an edge of reeds to be established.
2. A new canal connection to the Llangollen Canal including a large splay
3. New towpath bridge over canal connection measuring 24m in length. This would be constructed of black and white painted steel with timber boarding on reclaimed brick piers with stone caps. The bridge will be 3m above ground level with a 1.5m high handrail and will be accessed via a ramped path set on 1 to 3 grassed embankments. Footpath 25 will be diverted over a new towpath bridge with ramped surfaced path with a 1 in 20 gradient.
4. A facilities building to include the following incidental or ancillary uses: boat hire/timeshare and brokerage; marina management offices; toilet, shower and laundry block; and cafe with retail space and public toilets; chemical effluent and household waste disposal/recycling facilities and a terrace overlooking the marina. Although quite a large footprint (564m<sup>2</sup>), the building is small in scale, single storey with a flat green roof with a height of 3.67m. Construction is of timber cladding with some coloured render
5. Alterations to an existing access on to Cholmondeley Road including a footway to one side and a gate for security purposes leading to a new internal road to 85 car parking, 65 spaces in the main public car park adjacent to the facilities building and 20 for boat users to the east of the marina.
6. Diversion and enhancement of public footpath no. 3 the path surface will be gritstone or blinded stone in keeping with the rural setting. The entrance and new canal edge would be constructed of steel sheet piling. Footpath 3 will be diverted for a length of

150m around the eastern boundary and will be enhanced by surfacing in a 2m wide compacted stone surface with a timber edge to create an all weather route. The existing stile where the footpath enters the site from the north will be replaced by a mobility kissing gate.

7. A separate enclosed waste compound is also to be provided.
8. There will be no lighting along the access road, but some low level bollard lighting will be installed to the car parks and jetties and there will also be limited lighting to the building entrances.

## **PLANNING HISTORY**

P97/0592 Use of land as recreation ground including football pitch.– Approved with conditions 18-Sep-1997

P02/0687 Removal of Condition 4 on Permission P97/0592- Approved with conditions 17-Sep-2002

13/4286N 2.37 Hectare 200 berth marina basin with pump out facilities; lighting and landscaping, fuel pump and storage and waste pump out; a new canal connection to the Llangollen canal with new towpath bridge over connection; a main sewer connection; a facilities building to include the following incidental or ancillary uses: boat hire/timeshare and brokerage; marina management offices; toilet, shower and laundry block; and cafe with retail space and public toilets; chemical effluent and household waste disposal/recycling facilities; an existing site access on to Cholmondeley Road to be upgraded to highways standard to serve a new internal road to car parking and service areas; diversion and enhancement of public footpath no. 3 - Withdrawn

## **POLICIES**

### **Crewe and Nantwich Replacement Local Plan**

Policy NE.2: Open Countryside

Policy NE.5: Nature Conservation and Habitats

Policy NE.9: Protected Species

Policy NE.11: River and Canal Corridors

Policy NE.12: Agricultural Land Quality

Policy NE.13: Rural Diversification

Policy NE.17: Pollution Control

Policy BE.1: Amenity

Policy BE.2: Design Standards

Policy BE.3: Access and Parking

Policy BE.4: Drainage, Utilities and Resources

Policy BE.7: Conservation Areas

Policy BE.16: Development and Archaeology

Policy TRAN.4: Access for the Disabled

Policy TRAN.9: Car Parking Standards

Policy RT.6: Recreational Uses in the Open Countryside

Policy RT.8: Promotion of Canals and Waterways

Policy RT.9: Footpaths and Bridleways  
Policy RT.10: Touring Caravans and Camping Sites

### **Cheshire East Local Plan Strategy – Submission Version**

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28<sup>th</sup> February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The relevant policies are as follows:

Policy MP 1 Presumption in Favour of Sustainable Development  
Policy PG 5 Open Countryside  
Policy SD 1 Sustainable Development in Cheshire East  
Policy SD 2 Sustainable Development Principles  
Policy EG 2 Rural Economy  
Policy EG 4 Tourism  
Policy SC 1 Leisure and Recreation  
Policy SC 2 Outdoor Sports Facilities  
Policy SE 1 Design 1  
Policy SE 3 Biodiversity and Geodiversity  
Policy SE 4 The Landscape  
Policy SE 5 Trees, Hedgerows and Woodland  
Policy SE 6 Green Infrastructure  
Policy SE 7 The Historic Environment  
Policy SE 8 Renewable and Low Carbon Energy  
Policy SE 9 Energy Efficient Development  
Policy SE 13 Flood Risk and Water Management  
Policy CO 1 Sustainable Travel and Transport  
Policy CO 4 Travel Plans and Transport Assessments

## **Other Material Considerations**

National Planning Policy Framework  
National Planning Practice Guidance  
The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Cheshire East Visitor Economy Strategy

## **CONSULTATIONS (External to Planning)**

**PROW Unit** – No objections recommends informative

**Visitor Economy** - This new development is in line with the Cheshire East Visitor Economy Strategy agreed by Council in February 2011.

**United Utilities** - No objections but recommends conditions

**Natural England** – no objections but recommends inclusion of green infrastructure, habitat enhancement and landscape enhancement.

**Environmental Health** - no objections but recommends conditions in respect of the submission of an Environmental Management Plan, Noise Control, Dust Control, Contaminated Land, Construction Hours and Lighting

**Environment Agency** – objects as no FRA and no survey information in respect of depressed river mussels

**Archaeology** – As the early settlement may well have extended into the application site archaeological investigation and mitigation is required however this can be secured via a condition.

**English Heritage** – No objections

**Barn Owl Trust** – recommends a number of conditions regarding Barn Owl mitigation

**Canals and River Trust** – Recommends conditions in respect of finished levels, landscaping, lighting, contamination, construction management plan and surface water. Raises concerns regarding discrepancies/ some of the assumptions made within the Planning Statement and Design & Access Statement.

## **VIEWS OF THE TOWN COUNCIL**

Concerns as follows:

- Impact of conflict between cars and boat users at the lift bridge
- limited visibility at point of access
- road inadequate for HGVs
- impact of traffic generation on highway safety
- impact of earth movements and displacement on local road condition

- impact on the wildlife and vegetation. This would be caused by increased sound and light pollution, disturbance and loss of habitat
- impact to Conservation Area and the setting of the church and of a second listed lift bridge carrying a footpath across the canal;
- contrary to Policy RT6 which requires a development to improve community life and to have beneficial outcomes.
- increased pollution of the canal
- concerns site used to bury animals with anthrax and then foot and mouth and associated impact upon public health associated with disturbance of these contaminants.
- deep water is a health and safety hazard
- would have an adverse impact upon local businesses as the attractiveness of the canal and the village would be impaired.
- people using the marina would shop elsewhere
- impact on caravan site
- no genuine demand for more moorings on an already crowded canal

## **OTHER REPRESENTATIONS**

278 letters of objection raising the following issues:

- Need
- Impact on Landscape
- Impact on Views
- Noise and Disturbance
- Impact on Heritage Assets
- Impact on Nature Conservation
- Impact on Highway Safety
- Impact on working of the canal bridge
- Concerns relating to timing of application
- Impact on local businesses/ tourism
- Increased risk from flooding
- Light pollution
- Health & Safety considerations
- Suggestions of Alternative Locations
- Increased Risk of Subsidence
- Intrusion into open countryside
- Request café use not restricted to boat owners
- Impact of Waste
- Consultation arrangements
- Impact upon Drainage
- Odour and other amenity issues
- Pollution of water courses
- Impact on canal through flow

## **APPLICANT'S SUPPORTING INFORMATION**

The following documents have been submitted on behalf of the applicant:

### **Agricultural Land Classification Assessment**

Land is Grade 2 with a small area of Grade 3a (0.5ha)

### **Design & Access Statement**

Provides detail of consultation, planning policy, energy efficiency measures and improvements to biodiversity in addition to details regarding the nuts and bolts of the proposals.

### **Transport Assessment**

Considers access to achieve good visibility and concludes that the site is highly accessible by a range of means of transport. Car parking levels appropriate and traffic generation would have only a minor impact upon the highway network.

### **Landscape Visual Impact Assessment**

Hedgerows at the site are poor specimens and views of the site from the environs are limited. It has no distinctive characteristics and is therefore not particularly sensitive. Due to the topography and intervening features such as hedges, few views would be impacted upon as a result of this development. The proposed landscaping would mitigate and compensate for impacts identified.

### **Planning Statement**

There is a defined 'need' for the proposals, promotion of tourism facilities should be viewed positively, spin off benefits to local economy and is proposed in a sustainable location.

### **Tree Survey**

Category B trees identified, all of which would be retained and protected throughout the course of the development.

### **Archaeological Desk Based Assessment**

Although it is expected that the proposed marina development will impact directly upon thirteen sites of archaeological interest, the majority are hedgerows and are deemed to be of local importance which are poor specimens. Another feature of interest is a mound but its value is ecological. There would be an adverse impact upon the setting of the listed bridge however this impact would be minimised by the retention of features such as the hedgerow and trackway and the reduced size of the boat entrance to the marina. The impact would therefore be of such a low level that further assessment/ mitigation is not required.

### **Contaminated Land Report**

Site unlikely to be contaminated as an undeveloped field.

### **Protected Species Survey**

Depressed mussel survey identifying mussels but proposing mitigation, GCN unlikely to be present, Bats not present at time of survey but some trees have bat potential, barn owls, water voles and otters not present at time of survey, however evidence of Otter and Barn Owl activity in the area.

## **OFFICER APPRAISAL**

### **Principle of Development**

The site is allocated as Open Countryside (Policy NE2) within the Crewe and Nantwich Replacement Local Plan - the policies within that plan indicate that facilities required for the promotion of outdoor recreation would be permitted. This policy is in accordance with the NPPF and policy PG5 within the emerging Local Plan also considers facilities for outdoor recreation to be appropriate within the open countryside.

The construction of a marina with associated facilities would constitute facilities required in connection with outdoor recreation. It is considered that there is a presumption in favour of development.

Para 14 indicates that permission should be granted, unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'.

These issues are considered below.

### **Sustainable Development**

Paras 34 and 55 of the NPPF indicate that decisions should ensure that developments that generate travel movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Accessibility is a key factor of sustainability that can be measured. A methodology for the assessment of walking distance is that of the North West Sustainability Checklist- Planners can use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to locational accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue.

The toolkit sets maximum distances between the development and local amenities. These comprise of:

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)

- railway station (2000m).

In this case the development meets all of the standards with the exception of the railway station where the proposals would constitute a significant failure (being greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m). However, all residents within the village inset of Wrenbury would fail to meet this distance with the exception of those towards south east of the settlement – the railway station is not located within the village and is a considerable distance outside of the village.

Clearly, visitors would not have to travel very far for everyday services and certainly unlikely to be significantly more than residents within the village. Public transport accessibility to the site is good with good access to day to day services and facilities that any visitor would need, the site passes more criteria than it fails and locationally must be regarded as being sustainable.

There are, in addition, three dimensions to sustainable development -: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- Economic role;
- Social role; and
- Environmental role

These roles should not be undertaken in isolation, because they are mutually dependent.

Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general need for moorings in an attractive and desirable part of the south Cheshire countryside, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development.

The Design and Access Statement and the Transport Statement submitted provide an indication as to how principles of sustainable development / energy reduction would be met within the development. Conditioning the submission of a Travel Plan would ensure that the development would contribute to sustainable transport options.

Bringing forward this large development would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. In addition to the jobs created during the construction period, the proposals would bring the usual economic benefit to the shops in Wrenbury during the construction period and there would be significant economic and social benefits by virtue of visitor's spending money in the area and using local services.

Providing additional recreation facilities would improve the social wellbeing of the village by contributing towards mixed communities and making the area more resilient to change.

In this instance balancing issues of sustainability - the combination of the positive contribution towards economic growth and the benefits identified above, but in a sustainable location with access to exist facilities are considered to outweigh the harm caused by the loss open countryside.

### **Loss of Agricultural Land**

Policy NE12 of the Local Plan states that development on the best and most versatile agricultural land (grades 1, 2 and 3a in the ministry of agriculture fisheries and food classification) will not be permitted unless:

- The need for the development is supported in the Local Plan;
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non agricultural land; or
- Other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.

This is supported by the National Planning Policy Framework, which states that:

*“where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.*

The agent has advised that the site falls within category 2 and 3a which is deemed to be good quality agricultural land. Whilst the loss of Grade 2 and 3a agricultural land is regrettable and the concerns of residents in this respect are duly noted, the benefits of the proposal in terms of provision of outdoor recreation facilities and the associated benefits to the tourism economy could be considered to weigh in favour of supporting the proposal.

### **Impact upon the Landscape**

The site is in the East Lowland Plain Character Type and the Ravensmoor character area. The area has no landscape designations of national, regional or local importance but the south western part of the site falls within the Wrenbury Conservation Area.

The LVIA submitted with the application indicates that its sensitivity to alteration is low given that views of the site are limited and features such as hedgerows are of poor quality. The impact of the proposals has been considered in the short, medium and long term (15 years). However, given the scale of development proposed and the undeveloped nature of the site at present, appropriate landscape mitigation is required to minimise visual intrusion into Wrenbury Conservation Area and to neighbours.

The Council's landscape architect considers that the character of the site would completely change from a quiet pastoral landscape to a busy, more vibrant place with people, boats, vehicles and low level lighting. However, it is considered that it would not have an adverse impact on the character of the wider landscape especially once the proposed landscape scheme has matured, and would be an attractive landscape. On that basis, the proposals would sit comfortably with the existing settlement pattern.

The Council's landscape architect has however recommended conditions relating to details such as levels, retention and protection of trees and hedges, submission of a detailed landscape masterplan, SUDs, the footpath/cycleway network, full landscaping and boundary treatment and a management plan to ensure the impact to landscape character and visual intrusion to neighbours would be minimised.

The concerns of neighbours in respect of the loss of the landscape character of the site are duly noted, however this site is not particularly unique nor does it have any intrinsic value that ought to be protected in the public interest – hence why it does not have any particular landscape character designation.

Given that the worst impacts are mitigated, the change in character would not in itself constitute a reason for refusal particularly owing to the overriding benefits of the proposals.

## **Highway Safety**

The key issues regarding this application are accessibility, car parking, and access and traffic generation.

### Accessibility

The site is within walking distance of Wrenbury a local service centre and easily accessible by train, bus, cycle and by car. It is highly accessible which would encourage linked trips and alternative modes of transport. The improvements proposed to the footpath running across the site would enhance the accessibility of the site.

### Car Parking

The emerging Local Plan does not contain any standards in respect of car parking requirements for a marina. The marina would provide 85 spaces for the 200 berths proposed. There would be 6 full time members of staff required and therefore the proposals would provide significantly more parking than that required for staff alone. Similar levels of car parking were permitted at marinas elsewhere i.e. at Coole Lane, Audlem and The Outlanes Church Minshull.

### Access

The site is accessed off Cholmondeley Road. The layout submitted indicates that the scheme would comprise one main point of access and an arterial road including a new footpath. Gates are shown across the access 10.5m back from the carriageway. To prevent queuing traffic it is considered appropriate to condition that these gates remain during the hours of operation.

The proposed access into the site features 7.5m (max) entry radii and a 6.3m carriageway width. The arrangement shown is acceptable and the construction of the access road beyond the access would serve to limit vehicle speeds.

Cholmondeley Road has a speed limit of 60mph and the drawings indicate that visibility splays of up to 2.4m x 90m are in fact achievable in each direction. Therefore, the achievable visibility demonstrated from the proposed site access is acceptable.

## Traffic Generation

The applicant has submitted a Transport Statement indicating that traffic generation to the site would inevitably be via Cholmondeley Road where there would be sufficient capacity to accommodate the proposals.

However, it is noted that a number of residents and the Parish Council have concerns regarding the ability of the local highways network to accommodate the likely traffic generation- whilst there is no evidence to support this view, the provision of a Travel Plan would help to improve the sustainability credentials of the development and potentially reduce pressure on the network.

## Road Network

Neighbours and the Parish Council have raised concerns regarding the impact of earth movements on the local highways network. Given the sheer amount of excavation required to facilitate this development, the associated HGV movements could well have an adverse impact upon the condition of local roads. It is therefore considered appropriate to condition that a highway condition survey to be undertaken prior to works taking place and after earth works have been completed. The condition would require that the applicant would enter into a contract with CEC to undertake any repairs required.

Comments from the Strategic Highways Manager have not been received however, comments will have been received, and an update provided to members before the meeting.

## **Amenity**

The main concerns of neighbours and consultees relate to:

- Impacts during construction period
- Overlooking
- Loss of Outlook
- Overshadowing
- Air Quality
- Noise for future occupants
- Contamination

## Impacts during construction period

A development of this scale could well result in dust emissions, noise and disturbance and an impact upon air quality during the course of the construction period. To mitigate for the impacts, Environmental Health has recommended conditions relating to pile driving operations, hours of construction, dust control and the submission of an environmental management plan. These conditions are deemed necessary to mitigate the environmental impacts of the development.

## Loss of Outlook

The concerns of neighbours are duly noted, but the planning system does not exist to protect private interests and there is no right to a view. Whilst overlooking a marina may not necessarily be to everyone's taste, such development is appropriate within the countryside and as noted by the Council's landscape architect, is attractive in its own way.

Moreover the applicant has gone to considerable lengths to set back the marina and provide bunding which would obscure it from views from neighbouring properties.

### Overlooking & Overshadowing

The concerns of neighbours are duly noted however the proposed bunding and retention of hedges would provide sufficient obscurity to neighbours and the buildings and bunding proposed are set back within the site to ensure the proposals would not result in overshadowing.

### Air Quality

Air quality has not been specifically raised by Environmental Health as an issue, however given the scale of the development is such that there is potential to increase traffic and also alter traffic congestion in the area. Environmental Health has not recommended the submission of an air quality assessment however they have requested a condition requiring mitigation for any dust emissions during the construction period.

The Travel Plan would encourage uptake of low or zero emission transport options has the potential to mitigate the impacts of transport related emissions, however it is felt appropriate to ensure that uptake of these options is maximised through the development and implementation of a suitable travel plan.

In addition, modern Ultra Low Emission Vehicle technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow charging of electric vehicles in new developments.

Conditions in respect of Travel Planning and electric vehicle infrastructure are therefore considered appropriate.

### Noise

Conditions have been recommended by Environmental Health regarding mitigation of noise during the construction period. Hours of operation conditions and restriction of particular works such as boat repairs would mitigate the worst effects of the development.

### Contamination

As the site has been used as agricultural land, the Phase I investigation has indicated there is unlikely to be any contamination. However, as the site may have been used as a burial ground, the contaminated land officer has therefore requested a condition requiring further investigation works – this would be conditioned accordingly.

## **Trees and Hedgerows**

The applicant has submitted a Tree Report and Protected Species Survey in respect of the proposals.

None of the trees on the site are protected and only a few are of a quality worthy of retention. Those trees identified as having some amenity/ landscape value are scheduled for retention, with the majority of trees scheduled for removal being of limited value. The proposed landscaping would include tree planting which would compensate for this loss however a light touch approach is advocated as the existing character is of pasture land rather than woodland.

The formal comments from the Council's Forestry Officer were not received at the time of writing the report however it is anticipated that these comments and recommended conditions will be received before the meeting of Strategic Planning Board.

The Forestry Officer has also requested that the hedgerows be assessed under the Hedgerow Regulations however this has been undertaken as part of the Ecological Report- the hedges are not classed as important, and both mitigation and compensation are proposed which would be conditioned accordingly.

## **Heritage & Design**

### Heritage

The majority of the site lies beyond the Conservation Area however the Conservation Area boundary spans along Cholmondeley Road therefore it is the point of access and part of the access road that would be located within the Conservation Area.

The Conservation Officer has commented that in terms of the impact upon the Conservation Area, the canal is an important feature of the countryside and the proposals would enhance the prominence of this to the Conservation Area which need not necessarily have an adverse impact. The worst visual impacts would be mitigated through landscaping and bunding. The access point and access road (which are located in the Conservation Area) could have an impact, but appropriate choice in materials and gate design would ensure that this respects the character of the environs. The impact upon the character of the Conservation Area would be neutral rather than adverse. On that basis the proposals preserve the character of the Conservation Area.

Turning to the impact upon listed buildings, the proposals would impact upon the listed lift bridge, and St Marys Church and Churchside Cottage.

The proposed footbridge would be located in close proximity to the lift bridge however the design has been amended following comments from the Conservation Officer and the Canals and Rivers Trust and is now considered to respect the character and not detract from, this listed building.

The impact upon the Church and Churchside Cottage would be limited given that bunding and landscaping would obscure the marina from view.

## Design

The landscape impact of the proposals has been considered separately, and the removal of the objection from the Canal and Rivers Trust suggests that they now consider the marine and its associated infrastructure to be in keeping with the canal corridor.

The facilities building which is the more prominent of the two buildings would be constructed of timber and located adjacent to the roadside to ensure the visual impact of this is restricted to an already compromised area. The toilet block would extend further into the site however the combination of planting and its size would reduce its visual impact and prominence within the site.

The amenity space areas provide welcome relief from the infrastructure, and the planting avoids the creation of wooded areas which would appear out of context within this area of undulating fields.

The design therefore respects the character of the surroundings.

## **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, if there is

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- a specified reason such as imperative, overriding public interest.

The UK implements the EC Directive in The Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a licensing system administered by Natural England which repeats the above tests
- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements.

Circular 6/2005 advises LPAs to give due weight to the presence of a European protected species on a development site to reflect.. [EC] ...requirements ... and this may potentially justify a refusal of planning permission.”

In the NPPF the Government explains that LPAs “should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity are fully considered..... In taking decisions, [LPAs] should ensure that appropriate weight is attached to .... protected species... ... Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm..... If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

With particular regard to protected species, the NPPF encourages the use of planning conditions or obligations where appropriate and advises, “[LPAs] should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”

The converse of this advice is that if issues of species detriment, development alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

Ecological surveys were carried out by a qualified ecologist on behalf of the applicant which indicates that there was no evidence of protected species on the site although there was some evidence of depressed mussels along the canal corridor.

Mitigation measures are proposed.

The Council’s ecologist has no objections to the application subject to conditions to secure the following:

- Construction hours
- Badger Survey
- Lighting Scheme
- Replacement Hedgerow
- Barn Owl Tower
- Landscaping
- Depressed Mussel Mitigation

These conditions would be imposed accordingly. As there would be no adverse impact upon protected species, there is no requirement to consider the Habitat Regs.

If members are minded to approve the proposals against the Officer recommendation of refusal, it is recommended that the decision be deferred - the Council's ecologist has indicated that some additional information is required which may result in additional conditions being proposed. In addition the Environment Agency have not commented on the additional information in respect of Depressed Mussels (notwithstanding that this has been considered by the Council's ecologist). Whilst this is not in itself a reason for refusal, the information would need to be provided before a positive decision is made.

## **Flood Risk**

The applicant has not submitted a Flood Risk Assessment – for this major development.

The Environment Agency has objected in the absence of this information, which is a material consideration.

The applicants were aware of this objection before the application was submitted and have been given since the submission date until now to resolve this objection.

There is insufficient information in relation to flood risk and therefore the proposals are contrary to policy NE20 within the CNLP.

### **Other Matters: Need**

Letters of representation and the applicant have raised the issue of need – the applicant thinks there is a defined need, whereas residents think that there is no demand for such a facility.

Need is not mentioned as a particular factor for consideration, however, if members are to give weight to this as a material consideration relating to economic growth, it should be noted that both the Parish Council and the Canal and Rivers Trust originally raised concerns regarding 'need' as they have been cited as providing information.

The Framework does not advocate a Sequential Test approach to development proposed in the countryside. There is no defined need for the proposals as submitted identified within any Council produced document and if such a need were to exist, the designation of a site would need to go through a strategic planning process through the Local Plan allocations. Notwithstanding that the Need Assessment carries no weight as a material consideration for the reasons noted above, there are nevertheless concerns regarding the robustness of the Need Assessment submitted. Therefore this is not considered to attract weight either positively or negatively.

### **Other Matters: Representations**

Neighbours have raised concerns regarding the existing conflict between boat users and traffic along Cholmondeley Road and the impact of this development on this existing problem. Any development which results in either traffic generation or increases boat use of the canal would have an impact irrespective of whether this application is approved or not.

Health and Safety issues would be a matter for the operator.

## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The proposed marina will be a significant change in the character and landscape of the area, however as indicated it is not considered that the development would be detrimental to the countryside subject to appropriate conditions. It will lead to the loss of best and most versatile agricultural land but this must be balanced against the potential economic benefits that the scheme could bring to the area particularly given its locational proximity to Wrenbury which makes the scheme (unlike some others) sustainable. Given support for sustainable development within the NPPF it is considered that the balance weighs in favour of the scheme.

However, there remains an outstanding objection from the Environment Agency due to the lack of a flood risk assessment. The nature of the scheme makes such a submission fundamental to assessing its acceptability. It is also a matter that is known to the applicant/agent. Therefore without such an assessment a recommendation for refusal is made.

Application for Full Planning

RECOMMENDATION: Refuse for the following reasons

1. Insufficient information in respect of flood risk

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