

Application No: 14/2479C

Location: Chells Hill Farm, Chells Hill, Church Lawton, CW11 2TJ

Proposal: Variation of three planning conditions 2, 16 and 18 on Approved application 13/0402C to allow the current approved location of the marina road access to be removed and relocated from the B5078 (Chells Hill) onto the A533 (Cappers Lane).

Applicant: Ed Nield

Expiry Date: 21-Aug-2014

## **SUMMARY**

The principle of this development has already been deemed to be a sustainable form of development in NPPF terms. The issue of relevance is the effect of the variation of condition in terms of the relocated access point to the marina and Compliance with Para 206 of the NPPF concerning conditions on the following matters:

Impact on amended access point on Highway Safety  
Landscape Impact upon hedgerows  
Impact on Protected Species

## **RECOMMENDATION:**

**Approve with conditions**

## **DESCRIPTION OF SITE AND CONTEXT**

The site is located in open countryside to the east of Hassall Green and east of Rode Heath approx midway between Pierpoint Locks and Chells Aqueduct. It lies south of Cappers Lane and would be accessed by vehicles via Chells Hill. The land is currently in agricultural use (beef cattle) and is laid to pasture. The landscape is relatively flat and the site is bordered with hedgerows and contains a number of mature trees and two ponds. The Trent and Mersey canal adjoins the boundary and a public footpath crosses the site. Footpath No. 21 Betchton runs through the site to the canal and beyond.

## **DETAILS OF PROPOSAL**

This application seeks to vary condition 2 (approved plans) to take account of the relocated access (from Chells Hill to Cappers Lane), to vary condition 16 (detailed design of access to

Chells Hill to detailed design to Cappers Lane) and condition 18 which previously required the existing field access to Chells Hill to be stopped up

## **RELEVANT HISTORY**

13/0402C Proposed Inland Waterways Marina Including Supporting Facilities Building And Workshop, New Wetlands, Habitat Creation, Ecological Areas, Landscaping, Footpaths, Road Access And Associated Car Parking – approved with conditions 26 April 2013

## **POLICIES**

### **National Planning Policy**

National Planning Policy Framework

### **Cheshire Replacement Waste Local Plan (Adopted 2007)**

Policy 10 (Minimising Waste during construction and development)

Policy 11 (Development and waste recycling)

### **Cheshire Replacement Minerals Local Plan (Adopted 1999)**

Policy 45 (Land Bank for Sand and Gravel)

Policy 47 (Areas of Search for Sand and Gravel)

### **Local Plan Policy**

PS8 Open Countryside

NR4 Non-statutory sites

GR1 New Development

GR2 Design

GR5 Landscaping

GR6 Amenity and Health

GR9 Accessibility, servicing and provision of parking

GR15 Pedestrian Measures

GR17 Car parking

GR18 Traffic Generation

NR1 Trees and Woodland

NR3 Habitats

NR8 Agricultural Land

E5 Employment development in the Open Countryside

E16 Tourism and Visitor Development

RC8 Canal /Riverside Recreational Developments

Of the remaining saved Cheshire Structure Plan policies, only policy T7: Parking is of relevance

### **Cheshire East Local Plan**

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  
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

### **Other Material Considerations**

Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994

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

**Highways:** No objection to the proposed revised access point subject to conditions. The SHM has been involved in various discussions in the past on this scheme and the proposed access is very much the result of the discussions that have taken place.

**Environmental Health (Amenity):** No objection subject to standard conditions aimed at protecting residential amenity.

**Environmental Health (Contaminated Land):** Part of the site is within 250m of a Landfill site. The Phase II report submitted does not follow best practice, therefore should adverse land conditions be encountered work should stop and Environmental Health should be contacted.

**PROW Unit:** No objection.

**Canal And River Trust :** In 2005 British Waterways (now the Canal & River Trust) identified a 'best case' forecast of an additional 11,500 mooring berths being required nationally by 2015, based on a forecast growth rate of 4%. The economic climate will impact on the percentage growth either up or down but the overall trend since 1992 shows an increase in boat numbers. Evidence suggests that every job in the core inland marina sector is associated with a further 10 jobs in the local economy; through tenant businesses, suppliers and as a result of visitor and employee expenditure.

No objection subject to conditions concerning landscaping of the site and the provision of spot levels, so as to ensure that the proposed development adequately respects the character and appearance of the Canal Conservation Area. Also confirm that agreement has been reached concerning the provision of a link from the PROW over Pierpoint lock to assist is walkers gaining access to the tow path on the other side of the canal, to assist in walkers gaining Access to Hassell Geen and Rode Heath.

#### **VIEWS OF THE PARISH / TOWN COUNCIL**

Betchton Parish Council : No comments received

#### **OTHER REPRESENTATIONS**

One objection on the following grounds :

- Lack of an adequate visibility splay at the location of the revised opposition of the access road

The comment can be viewed in detail on the application file and on the web.

#### **APPLICANT'S SUPPORTING INFORMATION:**

- Transport Assessment
- Ecological Surveys including confidential material pertaining to badgers, GCN survey
- Tree Survey

Copies of these documents can be viewed on the application file.

#### **OFFICER APPRAISAL**

##### **Principle of Development**

The principle of development has already been accepted following the approval of application 13/0402C. This determination seeks only to address the change of access point

##### **Amenity**

The closest dwellings are Oak Tree Cottage and The Barn, both located on Chells Hill, some 250m from the proposed basin. The other close dwellings are that of the applicant himself and Sundown, which is located some 60m from the proposed vehicular access and circa 370m from the proposed basin.

Given the distances involved to nearby residential properties and the likely pattern and intensity of the activities which would occur at the proposed marina it is concluded that the proposed development will not have any detrimental impact upon the amenity or privacy of residents in the area.

##### **Landscape Impact and trees/hedgerows**

The site is currently agricultural land located immediately adjacent to a residential area. An electricity pylon traverses the site. There are well established hedgerows and tree belts/woodland to several of the boundaries. A number of mature hedgerows and trees are located around the periphery of the site. The land is generally flat.

The site lies within the open countryside and is governed by Policy PS8 of the Congleton Local Plan. This seeks to restrict development within the countryside apart from a few limited categories. One of the Core Planning Principles of the NPPF is to *“take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”*.

Policy PS8 accords with the NPPF desire to recognise the intrinsic character of the countryside. The relocated access has no greater impact upon the countryside than the access point that was originally approved.

There are no landscape designations on the application site. In the Cheshire Landscape Character Assessment 2008, adopted March 2009, the site is identified as being located in Landscape Type 17: Higher Farms and Woods; within this character type the application site is located within the Little Moreton Character Area: HFW2. In the Former Congleton Borough Council, Congleton Landscape Character Assessment 1998, the area is located within the Cheshire Plain Landscape, one that is identified as being ‘of good quality’. This is a pleasant rural landscape having a reasonable distribution of semi-natural features’.

#### *Levels*

These are unchanged by this proposal. It is intended that the spoil excavated from the marina basin will be placed on the surrounding land which would then be returned to meadow. The farmer intends to re-introduce grazing to the majority of the re-contoured part of the site. The submitted Landscape Character Assessment indicates that the spoil areas will be at a constant depth of 1.48m, sloping as the current slope does at 1 in 10 and that the edge of the bank of the basins will be steeper, sloping to the water’s edge at 1 in 3. Some further information is required, particularly where this spoil is closely related to the root protection area of existing trees, however, this can be satisfactorily addressed via condition.

#### **Hedgerows/Trees**

Policy NR 3 of the CBC Local Plan refers to Important Hedgerows. Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as ‘Important’. Should any hedgerows be found to be ‘Important’ under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

On this site there would be hedgerow loss in order to create the new access with visibility splays on Chells Hill. Whilst an existing access would be closed up, (a circumstance which could fit an exemption clause in the Regulations), there would be a net loss of hedgerow, however, this can be mitigated by replacement planting and would not impact on the historic field pattern of the exiting hedge line to the Chells Hill frontage. On this basis Policy NR3 is complied with.

#### **Ecology**

The application is supported by a Great Crested Newt survey which was undertaken 4 years ago. The Council’s Ecologist considers it this survey is still acceptable for planning purposes.

Evidence of breeding Great Crested Newts was recorded at a number of ponds within 500m of the proposed development. In the absence of mitigation the proposed development is likely to have an adverse impact on this species as a result of the permanent and temporary loss of terrestrial habitat and the risk of killing/injuring animals during the construction phase. Considering the nature of habitats present the potential impacts of the proposed development are relatively low considering the scale of the proposed works.

However since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to the Habitat Regulations when determining this application. In particular, the LPA must consider whether Natural England is likely to grant a derogation license.

The Habitats Regulations only allow a derogation license to be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favorable conservation status of the species will be maintained.

In this case, the economic benefits associated with the tourism attracted to the area and the employment generated is considered to be of overriding public interest, taking into account the low level impacts as noted by the Ecologist.

To compensate and mitigate for the loss of terrestrial habitat the applicant proposes the creation of new ponds.

The Council's ecologist advises that, if planning consent is granted, the submitted mitigation/compensation is broadly acceptable. Subject to conditions, the favorable conservation status of the species will be maintained.

The site also exhibits features that are considered as Biodiversity Action Plan Priority habitats and hence a material consideration. These include hedgerows, badger habitat and breeding birds.

#### Badgers

A badger sett which appeared to be dis-used at the time of the survey was recorded on site. However, setts can become re-occupied and given the badger survey is over 12 months old it is recommended that an updated survey is undertaken before any development occurs. The updated report should include and mitigation/compensation proposals for any adverse impacts identified.

#### Breeding Birds

Standard conditions will be required to safeguard breeding birds and ensure additional provision is made for breeding birds and roosting bats.

#### Bats

No evidence of roosting bats was recorded during the submitted survey and bat activity on site appears to be low. The ecologist is of the opinion that the proposed development is unlikely to have a significant adverse impact upon bats.

### Hedgerows

Hedgerows are a biodiversity action plan priority habitat and hence a material consideration. The submitted indicative layout will result in the loss of part of the hedgerow fronting Chells Hill Road to form the vehicular access. If planning consent is granted a condition is necessary to ensure that the loss of hedgerow is compensated for through the planting of new native species hedgerows.

### **Highways and traffic generation**

The position for the access is to be relocated to Cappers Lane from Chells Hill (as previously approved). This is to be where the applicant has a field access and has been assessed by the Strategic Highways Manager who considers the access point to be appropriate.

The applicant intends to provide a more detailed access design on the back of a topographical survey. The Highways Manager considers this to be acceptable

The internal access road is shown to provide passing places along its single track width. These passing places should be intervisible and the Highways Manager considers the condition previously imposed to be appropriate.

Overall the proposal is considered to be acceptable in highways terms.

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

The provision of a marina with workshop and facilities buildings at this site is consistent with policies for outdoor recreation in the rural area and has already been accepted.

The proposed relocated site access provides for a suitable access to the marina. It will improve facilities for boaters in the area and provide moorings, encouraging tourism and economic development in the rural area. It will ensure safe access to the development. It is therefore appropriate to vary condition 2 (approved plans) and condition 16 (detailed design of the revised access).

Condition 18 on the original permission is no longer necessary given that it required the closure of an existing field access on to Chells Hill to ensure safe operation and can be deleted.

The development will therefore comply with Policies GR1 (Amenity), GR2(Design), GR5 Landscaping;GR6 Amenity and Health; GR9 Accessibility, servicing and provision of parking ;GR15 Pedestrian Measures; GR17 Car parking; GR18 Traffic Generation PS8 (Open Countryside), NR1 Trees and Woodland; NR3 Habitats; NR8 Agricultural Land; E5 Employment development in the Open Countryside; E16 Tourism and Visitor Development; RC8 Canal /Riverside Recreational Developments and RC8 (Promotion of Canals and Waterways) of the Borough of Congleton Borough Council Replacement Local Plan 2005 and comprise a development that accords with the thrust and principles of the NPPF.

### **RECOMMENDATION**

**The application is recommended for approval subject to the following conditions**

1. Commencement of development – time frame as originally approved
2. Revised Plans
3. Materials -buildings and all hard surfaces
4. Tree survey
5. Notwithstanding the submitted landscaping details, prior to the commencement of development, full details of structural landscape planting/additional screen planting to be introduced on the site shall be submitted to and agreed in writing by the local planning authority
6. Full details of the works to deposit the excavated material on the site and finished site levels shall be submitted to and agreed in writing by the local planning authority.
7. Amended landscaping scheme including details of any boundary treatment inc replacement hedge/ all fencing to segregate marina from farmers field/ landscape management plans to be submitted
8. Implementation and maintenance of landscaping
9. Submission of 10 year habitat management plan
10. Detailed designs of new ponds
11. Provision of bat and bird boxes
12. Safeguarding breeding birds
13. Implementation of great crested newt mitigation, subject to Natural England licence.
14. Scheme to limit the surface water runoff generated by the proposed development, to be submitted to and approved
15. temporary protective metal fencing to be erected 5 metres from the Trent and Mersey Canal
16. Prior to first development the developer will provide a detailed highway access design from the revised access point on Betchton Lane, based on a topographical survey, which will show standard junction geometry and be tracked to demonstrate safe turning movements and to the satisfaction of the LPA.
17. Prior to first development the developer will provide an amended plan showing intervisible passing places along the internal access road to the marina to the satisfaction of the LPA.
18. Workshop/ maintenance /repairs of canal boats only
19. Archaeology
20. Narrow boats within dry dock to be stored at ground level only and not stacked
21. No moorings to be used as sole or main residence and the site operator shall maintain an up-to-date register of the names and addresses of all owners and occupiers, and shall make this record available to the local planning authority at all reasonable times, upon request
22. Scheme to allow pedestrian access across the Trent & Mersey Canal at Pierpoints Bottom Lock (Lock 56) to be submitted
23. Bin store details
24. Amended lighting scheme – inc Full details, including design, position and lux levels of all lighting
25. Submission of amended tree protection plan required to reflect amendments to spoil disposition. Implementation.
26. Updated badger survey

**In the event of any changes being needed to the wording of the committee's decision (such as to delete, vary or add additional conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Principal Planning Manager, in consultation with the Chair of the Southern Planning Committee is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.**

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