

Application No: 13/4049N

Location: LAND TO THE WEST OF WRENBURY HEATH BRIDGE, NANTWICH ROAD, WRENBURY

Proposal: Development of marina with associated dredging to accommodate this development; Associated marina amenities including facilities building, boat workshop, car parking and hardstanding, and landscaping; and A new access road and farmer's entrance to the existing field, footbridge and associated footpaths

Applicant: Mr Paul Beswick, Enzygo Limited

Expiry Date: 23-Dec-2013

SUMMARY RECOMMENDATION REFUSE

MAIN ISSUES

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

REASON FOR REFERRAL

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

This application was deferred from the last meeting (17.9.14) to enable the agent to provide additional information in respect of the recommended reasons for refusal.

DESCRIPTION OF SITE AND CONTEXT

SITE DESCRIPTION

The application site measures 5.66 hectares, is irregular in shape and comprises two fields of gently undulating pasture land bisected by hedgerows and bounded by Nantwich Road and the canal towpath of the Llangollen Branch of the Shropshire Union Canal (by Wrenbury Heath Bridge).

The site lies within the designated open countryside.

DETAILS OF PROPOSAL

The proposed development contains the following elements:

A new 178 berth marina with associated dredging to accommodate the development. All boats will be moored on floating pontoons, held in place by driven piles, permitting a rise and fall beyond the predicted 100 year flood levels. Pontoons will be linked together for stability and for the purpose of dry egress in time of flood. Three main types of mooring will be provided:

- Small leisure craft
- Narrow beam narrow boats 2 x 21m max
- Wide beam craft/Dutch barges 4 x 21m max.

Associated marina amenities including facilities building 392 sq. m, Secondary Toilet Block, Service Compound and Bin Store and Recycling points around the site.

A new access road and farmer's entrance to the existing field, footbridge and associated footpaths.

SUPPORTING INFORMATION

Agricultural Land Classification Assessment

The land comprises 3b which is not the "best and most versatile" agricultural land.

Sustainability Statement

Indicates proposals will utilise renewable energy and recycled materials where possible.

Need Assessment

There is a justified need to provide the moorings proposed within this application.

Design & Access Statement

Provides details on the proposals and concludes that it would have a positive impact upon the environment.

Transport Assessment& Travel Plan

These assessment reports upon the transport accessibility of the proposed development location, and assesses the impact of the likely traffic generation upon the road network. Travel Plan would encourage car sharing.

Biodiversity Enhancement Plan

Provides details on how habitat enhancement can be incorporated

Landscape Visual Impact Assessment

Slight change in character of the landscape

Planning Statement

Includes details on need and availability of other sites

Tree Survey

Poor category trees and removal necessary to facilitate the development but impact would be mitigated through landscaping scheme.

Contaminated Land Report

Limited evidence of contamination

Protected Species Survey

Impact on GCN mitigated and compensated for

Flood Risk Assessment

This assessment reports upon the flood risk and drainage proposals for the development and assesses any likely impacts

Statement of Community Involvement

Details how community were involved prior to submission of application.

Letter Dated 30.9.14

Letter responding to content of committee report considered by members at the meeting on 17.9.14.

RELEVANT HISTORY

There have been many other applications relating to the use of the site, the following of which are relevant to this application:

12/3358N Development of marina with associated dredging to accommodate this development; Associated marina amenities including facilities building, boat workshop, car parking and hardstanding, and landscaping; and A new access road and farmer's entrance to the existing field, footbridge and associated footpaths Withdrawn

09/3429N Proposed New Marina, Facilities Building, Workshop, Associated Car Parking & Hardstanding, New Entrance off Nantwich Road and New Farmers Entrance to Existing Field Re-Submission of P08/1123 Withdrawn

P08/1123 Proposed Marina at Wrenbury Heath. Withdrawn

POLICIES**Crewe and Nantwich Replacement Local Plan 2011**

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 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 28th 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 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 AND REPRESENTATIONS

Environment Agency – no objections recommends conditions in respect of SUDS and biodiversity action plan

Archaeology – Based on previous Archaeological information submitted on the previous application, recommends conditions in respect of a watching brief and

Canals and Rivers Trust – No objections subject to conditions relating to the footbridge, lighting, landscaping and surface water drainage.

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

Natural England –recommends refusal as insufficient information in respect of Otters and GCNs and if proposals approved, 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

Highways – No objections

Inland Waterways Association – The applicant's Design & Access Statement says in paragraph 2.9.1 that 'The existing marinas along the Shropshire Union Canal network are not able to service the demand for offline moorings at present'. This is very misleading. Whilst some parts of the Main Line (near Waverton, and south of Cheswardine) have an excess of on-line moorings, this is not an issue on the Llangollen Canal, where there are few on-line moorings. Furthermore, the existing marinas, one of which is only three miles east of the proposed site, have plenty of vacancies. I appreciate that over-supply is not in itself a valid planning reason for objection.

The main constraint on boating on the Llangollen Canal is the delay already experienced at many locks, in particular the 'staircase' at Grindley Brook, where delays of several hours already occur at peak periods. Because this canal is a branch, with the attraction of the Pontcysyllte World Heritage Site at the western end, the main boating movement is up the canal at the start of each week, and down the canal at the end. This is exacerbated by the number of hire bases on and near this canal — and most hirings start on Saturdays.

This canal is also the most popular in the country for first-time hirers. Thus any significant increase in the number of boats attempting to use the Llangollen Canal is likely to have the perverse effect of discouraging people from hiring for a second time or becoming boat owners. Granting planning permission could therefore be contrary to other planning aims of Cheshire East and neighbouring councils.

Cheshire East's policy is to refuse development in open countryside unless there is a net community benefit. In this instance the employment gains are negligible and the tourism aspects are in the long run negative. Although the applicant claims in 2.1.1 of the Design & Access Statement that creation of a marina would result in 'an enhancement of the landscape quality and biodiversity interest', it would seem that the landscape would be better left untouched.

Parish Council – that the Council objects to this application on the grounds that it would be detrimental to the highway safety owing to the adjacent two canal bridges; increased canal traffic to the detriment of waterway users owing to over-use along the canal; adverse effect on the listed Wrenbury Lift bridge with a large increase in the amount of time that the bridge was raised and thus the road was closed; the development will have a major visual impact on local landscape; and concerns regarding the environmental and highways impact during the construction phase and subsequent boat deliveries by road.

The lift bridge is one of only two in the country along public highways. The bridge is under constant use by highways as a major route into the village. When canal traffic is going through the bridge, the highway is blocked. Clearly as a main thoroughfare into the village this could hinder emergency and well as other vehicles entering the village. Currently there is an informal three barges through at a time and this is often insufficient during the summer in particular. This part of the canal is a cul-de-sac therefore there is only one way in and out of the basin. Therefore any additional canal traffic will cause severe pressure on the lift bridge and result in much longer highway closures and inconvenience to road users including emergency services.

8 Letters of objection raising the following issues:

- Need
- Impact on Landscape
- Impact on Views
- Noise and Disturbance
- Impact on Highway Safety
- Impact on working of the canal bridge
- Crime
- Light pollution
- Health & Safety considerations
- Suggestions of Alternative Locations
- Intrusion into open countryside
- Consultation arrangements/ inaccuracies within submission
- Amenity issues

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- 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 fails to meet all of the standards with the exception of the railway station and bus stop 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).

Public transport accessibility to the site is very poor. Even this limited analysis demonstrates, for day to day services and facilities that any visitor would need, the site fails more criteria than it passes and locationally must be regarded as being unsustainable.

The agents letter dated 30.9.14 states that:

'despite the submission of a comprehensive Travel Plan identifying that limited weight can be given to the North West Sustainability Checklist as it has a number of limitations that do not consider precedent not the overriding policies of the NPPF'.

This infers that officers have incorrectly applied the North West Sustainability Checklist. It is duly noted that not all of the criteria would be directly applicable or be used by patrons of the marina such as primary school or child care facility. However, many of the criteria would be applicable such as a pharmacy, local shop, post box, medical centre, play area. As para 28 of the NPPF supports tourism in appropriate locations accessibility is a consideration in determining whether or not this is an appropriate location for the marina. In any event, the assessment of sustainability does not rest on the North West Sustainability Checklist alone as explained below.

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:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

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 demand for moorings and making a positive contribution towards the visitor economy, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development.

The Sustainability Statement provides some indication as to how principles of sustainable development / energy reduction would be met within the development. The Travel Plan would encourage car sharing and a taxi 'buddy' system. However, this would be ineffective in contributing to sustainable transport options because there are limited options in this isolated rural area.

No economic benefit analysis has been provided as part of the application, however, it is accepted that the construction of a marina of this size would bring the usual economic benefit to the closest shops in Wrenbury for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new visitor's spending money in the area and using local services and a small number of new jobs as a direct result of the proposals.

The Agents letter dated 30.9.14 suggests that officers have not given sufficient weight to the benefits of the proposals following an appeal decision (Barby Moorings). In response to this, officers note that that decision was pre-NPPF and places significant reliance on guidance within The Good Practice Guide on Planning for Tourism which was superseded by para 28 of the NPPF. Moreover, that decision placed greater weight on the 'need' for the marina justifying a less accessible location. In respect of these proposals

a) evidence of need is inconclusive given that there is conflicting evidence between the applicant and other parties in this regard.

b) a marina was proposed in a more sustainable location in this area (ref 14/1579N) which would also have met the functional requirements of a marina

In addition, the letter dated 30.9.14 requests that the employment benefits are clear – however officers note that in the employment section within the application forms, zero has been inputted for job creation and there are no details of FTE jobs within the submission or an economic benefit analysis (noted above). Moreover isolated sites offer restricted opportunities for visitors to undertake the search and comparison of goods and services within the local area.

On that basis, due consideration has been given to the economic benefits of the proposals, however, the assessment below would be consistent with the NPPF.

To conclude, the benefits include the provision of recreational facilities and the positive contribution towards the visitor economy do not outweigh the harm caused by virtue of the unsustainable location of the site.

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 3b which is deemed to be lesser quality agricultural land. Whilst the loss of any 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 outweigh the loss of such land to agriculture.

Design and Impact upon the Landscape

Design

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 reduced size would reduce its visual impact and prominence within the site.

The amenity space areas provide 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.

Nevertheless ground levels would be increased and the building and associated car park would be at the higher level than the tow path.

However, it is the impacts upon landscape and wider views are also a consideration in respect of the design impacts. These issues are considered below.

Landscape Impacts

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.

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.

The worst effects would be during the construction period, with effects reducing to minor adverse once constructed – the LVIA considers that the mature boundaries provide screening and that the marina would fit in with the most dominant landscape feature- the canal. The longer term effects would be slight adverse once the landscape planting has matured.

The LVIA states that proposals would not have a significant adverse impact as the proposals would extend the impact of the canal which is seen as a positive component of the landscape. Infrastructure is sensitively located and the design and landscaping would be consistent with the character of the rural area.

The Council's landscape architect considers that the identification of a moderate /substantial adverse residual impact on landform and moderate adverse residual impact on landscape character is a concern. In addition, the study underestimates the sensitivity of receptors and significance of impact on the visual receptors of users of the canal towpath and Nantwich Road.

Given the prominence of the site, its relatively isolated location and the changes in levels/ amount of built development proposed this development is very capable of having a significant adverse impact upon the character of the area. Unlike the marina proposed under application 14/1579N, the impacts are not obscured from wider views and there is no masterplan for landscaping and the development would not be obscured from view due to the presence of existing built development.

The agent has commented that the change in levels is between 2.4m (just under 8ft) and 3.8m (just over 12ft) and that this is 'entirely in keeping with existing levels within the immediate vicinity.

Officers consider that the change in levels would be out of character given that the land at present is low lying and comprises low flat plains with the canal running through – the land at present does not significantly undulate in this location. The agent references levels at Wrenbury Hall Farm however this does not form part of the immediate context of the site.

The agent has indicated that ‘it is inevitable that a marina would result in a change of land form and landscape character of the marina but one must also recognise that a marina is entirely congruous.’

It is acknowledged that any marina would change the character of the land from a quiet pastoral landscape to a busy, more vibrant place with people, boats, vehicles and low level lighting and that this need not necessarily be unacceptable. The agent also states that a location closer to the village would have greater impacts. To the contrary, under application 14/1579N also for a marina, there were no landscape objections for the following reasons:

1. There was no build up of levels
2. Bunding was proposed obscuring the worst visual impacts
3. Buildings along Cholmondeley Road obscured wider views
4. A landscape masterplan was provided

Those proposals would have sat comfortably with the existing settlement pattern however this is a much more exposed site and the combination of the visual prominence of the site coupled with the change in levels and absence of landscaping or existing features to obscure views would result in a significant adverse impact upon the landscape character and result in visual impacts to users of the towpath and road.

The agent has requested that this application not be compared to application 14/1579N however the comparison above is only to demonstrate that it is entirely possible to design a marina in a more accessible location without adverse landscape / visual impacts and that the assertion that any marina would attract objections from the landscape architect on landscape grounds cannot be substantiated in light of that recommendation.

It is acknowledged that there is a difference in professional opinion between the agent and the Council’s landscape architect. Officers have considered both views but agree with the Council’s landscape architect that the above concerns justify a reason for refusal.

On that basis, it is considered that the information submitted is not sufficient to demonstrate that the proposals would not have an adverse impact upon landscape character nor visual impacts on road users and towpath users.

Highway Safety

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

Accessibility

The site is not particularly accessible by sustainable means of travel and would be reliant on cars, a taxi 'buddy' system proposed in the Travel Plan, infrequent bus services and potentially some albeit limited cycle usage.

It is not a particularly accessible site, and the measures mentioned within the Travel Plan would be unlikely to achieve a step change in travel patterns to and from 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 139 spaces for the 179 berths proposed. This level of car parking is in excess of similar proposed marinas elsewhere i.e. at Coole Lane, Audlem and The Outlanes Church Minshull and that proposed for application 14/1579N. However, given the isolated nature of the location, it is expected that almost all traffic generation would be car borne travel and this level of car parking is necessary for the particular needs of this development.

Access

The site is accessed off Nantwich Road. The layout submitted indicates that the scheme would comprise one main point of access and an arterial road including a new footpath. A gates access is provided deeper into the site away from the main access.

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.

Nantwich Road has a speed limit of 60mph and the drawings indicate that visibility splays of up to 2.4m x 70m (approx) are achievable in each direction. Therefore, the achievable visibility demonstrated from the proposed site access is acceptable based on vehicle speeds from a traffic survey conducted in 2009.

Traffic Generation

The applicant has submitted a Transport Statement indicating that traffic generation to the site would inevitably be via Nantwich 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- there is no evidence to support this view and the SHM indicates that the impact of the proposal is likely to be minimal during peak hours on the highway network.

Road 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.

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 is attractive in its own way.

Overlooking

The concerns of neighbours are duly noted however the combination of separation distances and proposed landscaping and retention of hedges would provide sufficient obscurity to neighbours and the buildings are set back within the site.

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 has the potential to try to 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 are 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, the contaminated land officer has 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. However a mature Oak tree shown for retention close to the bridge on Nantwich Road. The detail of proposed ground works in this area is unclear however, there is the potential for impact on the tree. The loss of this tree would heighten the worst visual impacts.

The hedgerows have been assessed under the Hedgerow Regulations however Landscape Architect considers that as the hedgerows may be Important, the impact on Important Hedgerows has not been considered:- the Biodiversity Enhancement Plan does not recognise the full extent of existing hedge loss from the northern boundary as indicated on the layout plan.

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 evidence of Otters and Great Crested Newts on the site.

It however recommends mitigation in respect of BAP habitat and protected species.

The Council's ecologist and Natural England have raised concerns that further survey work is required and that without this information, the proposals would have an adverse impact upon protected species and that the Habitat Regs would not be satisfied. The proposals are therefore contrary to policy NE9 within the CNLP 2011 and guidance within the NPPF.

The agents letter (30.9.14) states that the additional survey work has not been published on the Council's website – certain ecological reports are not published on the website in the interests of protecting the anonymity of habitats.

The letter then goes on to detail discussions between the agent and the Council's ecologist however the letter incorrectly identifies the key issue which is that the layout as submitted raises concerns regarding the impact upon GCNs.

As an adverse impact has been identified, there is a duty to consider the habitat tests as follows:

- 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.

No satisfactory alternative

The Council's ecologist has suggested an amended layout therefore there is a satisfactory alternative.

No detriment to the maintenance of the species population at favourable conservation status in their natural range

The layout submitted raises concerns in this respect and therefore the proposals would fail to maintain the favourable conservation status.

A specified reason such as imperative, overriding public interest

Given that there are other reasons for refusal identified and the benefits do not outweigh the harm, there clearly is no overriding public interest to approve the proposals.

On that basis the proposals are contrary to policy.

Flood Risk

The applicant has submitted a Flood Risk Assessment – whilst the site does not lie within an area of flood risk, the proposals relate to a major residential development.

The Environment Agency has no objections to the application subject to conditions relating to flood risk/ drainage which would be imposed accordingly.

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.

Other Matters: Duty to Cooperate

At the previous committee meeting the agent suggested that they were not aware of the recommendation on the application until the report was published.

Officers can confirm that there have been ongoing discussions with the agent regarding this application since 2013 and that the current case officer discussed the recommendation with the agent in advance of the committee meeting or the report being published.

The letter from the agent dated 30.9.14 suggests that no correspondence has been received in respect of the reasons for refusal. Officers can confirm that internal consultations have been published on the Council's website and are available to view publicly and that this was explained to the agent in an email dated 18.9.14.

CONCLUSIONS AND REASON(S) FOR THE DECISION

There are economic benefits associated with the marina, however this is an inaccessible location and would be unsustainable. In addition, it would have an adverse impact upon landscape character and there are identified adverse impacts upon protected species.

The updated response from the applicant's does not change the previous concerns with this proposal and it is recommended for refusal accordingly.

Application for Full Planning

RECOMMENDATION: Refuse for the following reasons

1. unsustainable form of development
2. proposals would have an adverse impact upon landscape character and insufficient information
3. insufficient information in respect of protected species and BAP habitat

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