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# Appeal Decision

Hearing held and site visit made on 17 March 2015

**by Brendan Lyons BArch MA MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 June 2015**

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**Appeal Ref: APP/R0660/A/14/2228777**  
**Cholmondeley Road, Wrenbury, Cheshire CW5 8HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David Young against the decision of Cheshire East Council.
  - The application Ref 14/1579N, dated 22 March 2014, was refused by notice dated 19 September 2014.
  - The development proposed is described as: a 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 towpath 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 café with retail space and public toilets; chemical effluent and household waste recycling facilities; existing site access onto 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; wildflower meadow and bat/barn owl tower.
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## Decision

1. The appeal is allowed and planning permission is granted for a 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 towpath 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 café with retail space and public toilets; chemical effluent and household waste recycling facilities; existing site access onto 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; wildflower meadow and bat/barn owl tower, at Cholmondeley Road, Wrenbury, Cheshire CW5 8HG in accordance with the terms of the application, Ref 14/1579N, dated 22 March 2014, subject to the conditions set out in the schedule annexed to this decision.

## Proposed development

2. The appeal site is made up of a row of open fields that lie between the built-up core of the village of Wrenbury and the Llangollen branch of the Shropshire Union Canal. The land, comprising some 5.8 hectares, is used for pasture, but the westernmost field is also occasionally used as overspill for the adjoining

small camping and caravan park. The caravan park and a bowling green are located behind the Cotton Arms public house, with which another public house, some houses and a boatyard form a separate focus of development around a lifting road bridge across the canal.

3. The bridge is listed Grade II and is a scheduled monument. Another lifting bridge, but for foot/cart traffic only, lies to the north of the appeal site, and is listed Grade II\*. The road bridge and the development around it form the western end of the Wrenbury Conservation Area, whose main focus is around the village green, overlooked by the Grade II\* listed parish church. The conservation area boundary passes through the appeal fields, which provide a green buffer between the two areas of development.
4. It is proposed to construct a marina basin, some 2.37 hectares in area, linked to the canal under a new towpath footbridge. The marina would have berths for 200 boats and would be served by a single-storey facilities building, containing offices and a café, as well as amenities for boaters. Parking for 65 cars would be located next to the building with a further 20 spaces for boaters at the eastern end of the marina. The perimeter of the site would be landscaped, much of it with trees and woodland planting on raised linear mounds. A public footpath crosses the site, leading north from the village green, through the churchyard to the lifting footbridge and the farmland beyond the canal. It is proposed to divert this to run inside the eastern boundary of the site, separated from the marina by a mound planted as a wildflower meadow.
5. Part of the main car park and landscaping, and the site access road, which would align with the existing field access, would lie within the conservation area. The remaining parts of the fields within the conservation area would be left undeveloped, fronting the road.

### **Main issues**

6. The planning application that is now under appeal was refused by the Council for four reasons. Prior to the Hearing, the Council resolved not to defend the first reason, with regard to inadequate information about flood risk. It was accepted that a Flood Risk Assessment had been submitted before the application was refused, but had not been assessed in time to be reported to the Council committee. Following the later withdrawal of the objection by the Environment Agency, concerns about drainage of the site could now be addressed by the use of planning conditions. I have found no grounds to take issue with that conclusion.
7. At the opening of the Hearing, in response to submissions for the appellant, the Council acknowledged that requested information on highway safety had also been submitted before the refusal, and had shown that safe access could be achieved. Accordingly, the Council agreed that it would not contest the appeal on the second reason for refusal, and sought to withdraw its statement on the matter, which dealt primarily with the capacity of the highway network to absorb existing and proposed traffic. The appellant acknowledged that the issue of highway capacity and the free flow of traffic, particularly given the effect of the nearby lifting bridge, remained a legitimate concern of other interested parties, including the Parish Council. I agree that it is a matter to be addressed.

8. A separate proposal for a 178 berth marina at Wrenbury Heath Bridge<sup>1</sup>, some 2 km to the north of this appeal site, is also currently under appeal<sup>2</sup>. The potential for cumulative effects in the event of both appeals being allowed therefore requires consideration.
9. The fourth reason for refusal related to potential adverse impact on the character of the village, of the conservation area and of the surrounding **countryside. It was submitted at the opening of the Hearing that the Council's** statement had expanded upon this reason by including specific concern about the effect on the setting of listed buildings. The Council acknowledged that the setting of listed buildings had not been cited in the reason for refusal, but pointed out that listed buildings, such as the parish church, clearly contribute to the character of the village and of the conservation area. The Council wished to contest the appeal on the basis of the wording of the reason for refusal and the policies referred to therein.
10. However the effect on the setting of the church has been raised by interested parties, including the Parish Council, and in considering proposed development there is a statutory duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting. There would also be effects on the **setting of other 'heritage assets'.** **The matter therefore** has to be addressed.
11. In the light of the above, I consider the main issues in the appeal to be:
  - The effect on the character and appearance of the conservation area and the setting of designated heritage assets;
  - The effect on the rural character and appearance of the area.
12. Other issues include the effect on local highway capacity and the free flow of traffic.

## Reasons

13. The development plan for the purposes of this appeal comprises the saved policies of the Borough of Crewe and Nantwich Replacement Local Plan 2011 ('LP') **adopted in 2005.** A new replacement plan, the Cheshire East Local Plan, is emerging and the Local Plan Strategy was submitted to the Secretary of State in May 2014, but its examination is currently suspended. As the outcome of the examination is unknown, limited weight can be given to the emerging policies in this decision.
14. The appeal site lies outside the settlement boundary and is therefore under LP Policy NE2 to be treated as open countryside. The policy seeks to restrict development in the countryside but allows exceptions for development essential for outdoor recreation and other uses appropriate to a rural area. This approach is fleshed out by LP Policy RT6 which supports recreation uses in the open countryside subject to criteria, which include lack of harm to countryside character or appearance, or to sites of natural or built environment conservation importance, and provision of safe and sustainable access. Development proposals that will enhance the uses of canals for recreation, leisure and tourist uses are promoted by LP Policy RT8, subject to no adverse

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<sup>1</sup> Planning application Ref 13/4049N

<sup>2</sup> Appeal Ref APP/R0660/A/14/2228481

impact on the surrounding environment and on the capacity of the waterway for boating use.

15. This balanced approach to the promotion of sustainable recreation development while protecting countryside character is broadly consistent with guidance of **the National Planning Policy Framework ('NPPF')**. Similarly, the promotion of good design sought by LP Policy BE2 is broadly consistent with NPPF core principles and guidance. The weight attached to these LP policy objectives is not diminished by any significant lack of consistency with the up-to-date Government guidance.

### **Conservation area and listed buildings**

16. In considering proposed development affecting a conservation area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the **area's character or appearance**.
17. Recent court judgements<sup>3</sup> have re-affirmed the importance of this duty and of the similarly worded duty under section 66 of the Act outlined above. Application of these judgments to the circumstances of an individual proposal means that **'considerable importance and weight' must be given to the** desirability of preservation or enhancement in any balancing of the merits of a particular proposal.
18. National policy guidance set out in the NPPF confirms the great weight in favour **of the conservation of 'designated heritage assets', such as conservation areas** and listed buildings. The particular significance of any heritage assets likely to be affected by a development proposal should be identified and assessed, including any contribution made by their setting. Any harm should require clear and convincing justification.
19. The concept of the setting of a conservation area is not enshrined in the legislation and does not attract the weight of statutory protection. The NPPF advises that the setting of a heritage asset can contribute to its significance. Opportunities should be sought for new development within conservation areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
20. LP Policy BE7 states that development will not be permitted if it would harm the character, appearance or setting of a conservation area. While broadly consistent with the NPPF objective, the policy approach does not fully reflect the necessary balancing of harm against public benefits outlined by the NPPF.

### **Significance of heritage assets**

21. The planning application was not supported by a heritage statement but some assessment of the significance of heritage assets can be found in the submitted **Archaeological Desk Based Assessment ('ADBA')**, where the historical evolution of the village is outlined. The Council has provided a draft Conservation Area

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<sup>3</sup> Judgements including: *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council, English Heritage, National Trust, The Secretary of State for Communities and Local Government* [2014] EWCA Civ 137; *The Forge Field Society v Sevenoaks District Council* [2014] EWHC 1895 (Admin); *North Norfolk District Council v Secretary of State for Communities and Local Government* [2014] EWHC 279 (Admin)

Character Appraisal ('CACA'). This has not been subject to consultation or formal adoption as supplementary policy, which limits the weight that can be attached to it, but it is useful as an initial professionally prepared assessment of the character and appearance of the conservation area.

22. **The CACA outlines the village's linear form, spread between four distinct nodes.** The two nodes to either side of the appeal site - the village core and the group around the canal road bridge - lie within the conservation area. The character of the conservation area is defined principally by the village core, with the historical continuity of the village green as the traditional focus of the settlement. The parish church stands out as the dominant building, by its scale and materials and the form and prominence of its tower. The domestic buildings are varied in age and style, but surviving traditional buildings, including some former farm groups, **help to establish the village's rural heritage.**
23. The development around the canal bridge adds a further dimension to the **village's character. The growth of this area illustrates the economic change** brought about by the arrival of the canal. The boatyard and one of the public houses occupy former mill buildings, which contribute to the sense of an early industrial enclave in a rural setting. The lifting bridge itself provides a distinctive landmark of functional design.
24. The part of the appeal fields within the conservation area serves as a green buffer that emphasises the difference in character between the two nodes of development, but is not a highly distinctive landscape feature in its own right. The wider part of the site wraps round to the north of the village core. The undeveloped character of the land, with a largely surviving historic field pattern and the long-established footpath to the lifting footbridge, establishes the immediate rural context for this part of the village core, most obvious in the open view out from the churchyard.
25. The openness of the land also allows glimpsed views back towards the village from the canal towpath and an important serial view of the church tower from the footpath, although views from each side of the lifting bridge and from the bridge itself are well screened by hedges. The appeal site thus forms part of the setting of both of these listed buildings.
26. However, the main element of setting that contributes to the significance of the lifting bridge is that of the linear canal corridor itself, with the fields to each side making a much more modest input. Similarly, the contribution made by the open fields to the significance of the listed church is also considerably less important than that of the buildings and open space of the village core.
27. The appeal site therefore makes a positive but relatively modest contribution to the significance of the conservation area and of the listed buildings as designated heritage assets.

### ***Effect of proposed development***

28. By availing of the existing field access, the proposed site access would have very limited impact on the existing hedgerow along the main road frontage. The new access road would be lined on each side by new hedges, and there would be extensive planting to the south of the main site car park. The remaining parts of the fields would continue to provide a green buffer along the

- road frontage, and would allow for existing uses to continue. Although the scale of the open fields would be reduced by new interventions, the part of the site that lies within the conservation area would not be significantly adversely affected, so that the character of the conservation area would be preserved.
29. The proposed planting would provide effective screening of the car park and the proposed facilities building, which would be modest in scale and design. The building would be partly visible from the canal towpath, but would have little effect on the experience of the canal corridor or on views of the conservation area.
30. The formation of the marina basin and its entrance from the canal would be a more significant change. The introduction of the large water body and the activity associated with the docking of boats would fundamentally depart from the pastoral nature of the existing field pattern. The close association of open fields with the northern edge of the village core would be lost, and there would be some loss of tranquillity. This would be most evident in the changed views out from the outer part of the churchyard, but adverse effects here would be mitigated by the retention of a strip of land at the churchyard edge and by the strengthened boundary planting.
31. However, the marina would not appear out of place in the context of the canal environment and its importance for the growth of the settlement. The development of the basin could be seen as a further step in the influence of the canal on the once agricultural village. Despite the change, the historic village core would remain clearly legible. Filtered views from the canal towpath would continue to be seen, albeit over water rather than over fields. The new footbridge over the basin entrance would provide a new elevated viewpoint from which the village could be appreciated in association with the marina basin.
32. The basin entrance would form the main change to the setting of the lifting footbridge. The submitted visualisations suggest that, over time, this feature would be quite well assimilated into the canalside environment and would not adversely affect the setting or special interest of the listed structure.
33. The church tower would continue to be seen as the dominant built feature, surrounded by its cluster of village buildings. The contrast with the open space to the north would remain, although the space would now be largely defined by water rather than green fields. The diversion of the footpath to run along the eastern site boundary would alter the clarity of its direct alignment towards the church. But the church would continue to provide the focus for the view at the northern entrance to the site from the footbridge, followed by only slightly less direct serial views along the diverted path, which would run between an existing hedge and a gently graded mound, planted as a wild flower meadow. There would be a minor adverse effect on the setting of the listed building, but its significance as a heritage asset would not be appreciably harmed.

### ***Conclusion on heritage***

34. In summary on this issue, I find that the character of the conservation area would not be harmed by proposed development within its boundary and that the setting of the lifting footbridge would be preserved, but that there would be a minor adverse effect on the setting of the conservation area and of the listed

church, such that the harm caused to their significance as designated heritage assets would be considerably less than substantial.

### **Countryside character**

35. The planning application was supported by a Landscape and Visual Impact Assessment ('LVIA'), professionally drafted and based on recognised good practice guidelines. In response to the appeal, the Council has submitted its own professional assessment of landscape and visual impacts.
36. The Cheshire Landscape Assessment, published in 2008, places the appeal site within the East Lowland Plain landscape character type, and the Ravensmoor character area. There is no dispute that the site is representative of this character type, being predominantly flat, with a small-scale landscape defined by the pattern of enclosure, and limited views restricted by hedges and trees enclosing small fields. The site has no formal designation for landscape quality.
37. The parties do not differ greatly in their assessment of landscape impacts. I **endorse the Council's** judgement that the site has a medium capacity to accept change of the nature now proposed, which means that it would be reasonably tolerant of the changes envisaged and that effective mitigation might be possible but might take some time to become effective. The magnitude of landscape effect would be at an intermediate level, defined as involving partial loss of or change to elements, features or characteristics of the landscape, and the introduction of elements that might be prominent but might not necessarily be considered to be substantially uncharacteristic. **As a result, the Council's** assessment of a landscape impact of moderate to slight adverse significance is not unreasonable, **and would not differ greatly from the appellant's conclusion.** In my view, the adverse effect would tend towards the lower end of that range. The Council acknowledges that the proposed additional planting would assist integration into the local landscape over time. In my view, the significance of long term effect would be slight or neutral at worst. The **LVIA's conclusion** of a net minor positive impact after 15 years would not be fully borne out by the evidence.
38. The LVIA assesses visual impact at 12 representative viewpoints, covering a range of receptors including residents and users of public rights of way. Both experts agree that, at completion stage, there would be some adverse visual impacts at all of these viewpoints, but differ slightly in their assessment of degree. I agree with the Council that changes of the magnitude proposed would result in impacts of substantial or substantial to moderate adverse significance at several viewpoints. However, I consider that these impacts would be considerably mitigated after 15 years by proposed planting, so that their significance would be moderate to slight adverse at worst, and in some cases, where perimeter hedgerows would be strengthened, would be slight positive. Views from the ground floor rooms and gardens of houses to the south of the site would be generally well screened by mounds and planting.
39. **The Council's appeal evidence echoes the reasons for refusal in finding harm to the character of the countryside, and hence conflict with LP Policy NE2.** However, this policy seeks to protect the countryside in principle, and does not set criteria on the nature of harm. In my view, the proposed development would fall within the category of outdoor recreation uses allowed by the policy as exceptions to the normal restriction on development in the countryside. The enhanced use of canals and waterways is specifically promoted by LP Policy

RT8 and outdoor recreation in the open countryside by LP Policy RT6. In my judgement, the modest degree of harm to landscape character and appearance suggested by an analysis of the two appraisals outlined above would not be sufficient to trigger significant conflict with these policies.

### **Other matters**

40. The outstanding concern for many interested parties, including the Parish Council, is **the proposal's likely effect on the free flow of traffic across the lifting road bridge**. Boat traffic has absolute priority, and the bridge can be raised at any time to allow a boat to pass through. There appears to be general agreement with the estimate by the Canal & River Trust ('CRT') that the process should take about 5 minutes, but that this can be longer subject to the number of boats waiting, and to the level of experience of the boater operating the controls. Further time is required for waiting traffic to clear through the single-lane bridge and the adjoining junction.
41. The bridge is an essential link between the village and places to the west of the canal, with the shortest detour said to add some 15-20 minutes to a journey. Representations by local people, some of whom live on the far side of the canal, spoke of the frustration of repeated delays in passing over the bridge and of the impact on essential access to local services. Delays also impose a constraint on the operation of businesses, such as farms with land on both sides of the canal.
42. Accurate assessment of the issue is hampered by a lack of survey data of the operation of the bridge during the peak summer months. A local resident stated that his informal monitoring had shown a very variable pattern from day to day. Anecdotal evidence of very long delays and of disruption to emergency services could not be borne out.
43. The existing situation is clearly less than satisfactory and any significant increase in delay would have further adverse effects. It is beyond the scope of this appeal decision to make recommendations about the case for greater regulation of the operation of the bridge, which is in any event opposed by the CRT. The appeal proposal must be assessed under current circumstances. In considering transport impacts, the NPPF advises that development should only be prevented where the residual cumulative impacts would be severe.
44. At the Hearing, the appellant was willing to **accept the Council's** estimate of an average existing number of bridge openings of 5 in a peak summer weekend hour, and that there would be some increase in openings following implementation of the appeal proposal but not to the extent predicted by the Council. The appellant refers to CRT data that show the number of boat movements on the canal has markedly declined since 2011. Whatever the reasons for this, I find merit in the argument that conditions following implementation of the appeal proposal should not be worse than those experienced in relatively recent years.
45. The CRT Stage 2 Study of the appeal provides a forecast of the likely additional boat movements directly attributable to the appeal scheme. When these are added to existing latest actual movements, the level of increase would not be as harmful as feared by those objecting to the proposal.



46. The Stage 2 Study also makes allowance for other approved marinas. The Study dates from 2012, and the subsequent decline in traffic suggests that the anticipated commitments have not come to fruition. But even if they were to, the net additional movements forecast, compared against the actual movements at the time, do not suggest an excessively great increase in traffic. The addition of the forecast traffic for the appeal proposal would not produce a severe cumulative effect on the need for opening of the Wrenbury bridge.
47. The **Parish Council raise a specific concern that the site's closeness to the** bridge would be likely to lead to particular pressure in morning peak hours, as boats began cruises in the Llangollen direction. However, the appellant has provided traffic count evidence, which shows that vehicle numbers at the peak hour are modest, with just over 1 vehicle per minute each way. Therefore, I agree with the appellant that even with some additional bridge openings, queue lengths should not normally be excessive and dispersal time should be reasonable.
48. Clearly, there might well be occasional instances where circumstances would combine to produce long delays, just as appears to happen now. But the evidence suggests that the appeal proposal would not generate additional severe impacts that would justify withholding planning permission.
49. The other potential source of increased traffic currently known would be the proposed marina at Wrenbury Heath Bridge, which would be somewhat smaller than the current appeal proposal. Were both proposals to go ahead, there would be a corresponding adverse effect on the operation of the bridge. But based on the CRT data, the cumulative effect would not be so severe that planning permission should be withheld.
50. The Council raises no objection on the grounds of increased traffic generated by the proposed use, and I have found no reason to disagree. While noting the **appellant's intentions with regard to a signing strategy to minimise traffic** conflicts, the evidence does not suggest that this would be essential. For a rural location, the village is also reasonably well served by public transport. Construction traffic routes, in particular the movements of wagons removing excavated earth, could be controlled by a planning condition.
51. Concerns about past use of the site for animal burials are not supported by any firm evidence and do not provide sufficient grounds to reject the appeal proposal. The evaluation and treatment of any land contamination, including any risk arising from past burials and nearby landfill, can be secured by a planning condition.
52. The indications are that the scheme is not designed to encourage public access to the marina basin. The proposal should therefore provide less risk than the more accessible canal, and fears about water safety should not be borne out.
53. A number of interested parties have questioned the need for a new marina, and have referred to specialist media reports of declining demand for berths. However, the appellant is not required to demonstrate need, and makes his own assessment of the demand for the proposed development. The grant of planning permission does not necessarily trigger immediate implementation, but all permissions are time limited to allow re-evaluation in the event of non-implementation.

54. The appellant outlines the economic arguments in favour of the proposal, and places it in the context of tourism and visitor strategies for the area, which include canal corridors as potential growth areas. The development plan, through Policy RT8, also promotes development that will enhance use of the waterways. I accept that the proposal would contribute to the economic gains sought. As well as direct job creation in the operation of the marina itself, forecast as 6 fte jobs, the proposal would support suppliers such as the chandlery at the nearby boatyard.
55. As a leisure destination, **I agree that the site's close** association with the two public houses and linked caravan and camping site would add to its **attractiveness. The appellant's analysis predicts significant spend directed** towards these local businesses and the village shop, even at modest occupancy rates. The owners of the shop, and others, express grave doubts about the predicted spending pattern of marina users, as opposed to the current smaller number of on-line moorers and of caravanners attending weekend rallies. While the marina would not allow full-time residential use, there would in my view be a high degree of overnight use that would be closely comparable in nature with those other types of short-term overnight stops, but potentially of a greater number overall. I consider it realistic to assume a significant contribution to the village economy.

### ***Balance of considerations***

56. I have concluded that the proposal would not result in direct harm to the character and appearance of the conservation area, but would have a minor adverse effect on its setting. There would also be a minor adverse effect on the setting of the listed parish church. Whilst recognising that the desirability of preservation of the setting of a listed building is a matter of considerable importance, I consider that the degree of harm in this instance would be low, with minimal detriment to the special interest of the listed building. The NPPF advises that **less than substantial harm to the significance of designated heritage assets should be weighed against the proposal's public benefits.** In this case, I find that the harm would be outweighed by the public benefits of the contribution to the local and regional economy and to the opportunity for outdoor recreation of a type of development that is supported by the development plan.
57. Similarly, I consider that the modest inevitable impact on landscape character would not be inconsistent with the development plan, and would be outweighed **by the proposal's other benefits.**
58. The increase in delays at the lifting bridge, while regrettable, would not be so severe that the proposal would have to be rejected, even when other known and potential commitments were taken into account. All other issues could be addressed by the imposition of conditions. The balance of considerations therefore lies in favour of approval of the proposed development.

### **Conditions**

59. **The Council's evidence included a schedule of potential conditions. These and** several others were discussed and broadly agreed at the Hearing. I am satisfied that, subject to some amendment in the interests of precision and to avoid duplication, the conditions proposed, with one exception, would meet the tests set out in the NPPF.

60. Standard conditions on commencement time and compliance with identified approved plans are necessary to fix the parameters of the planning permission. The layout of the site access requires further detailed approval because of uncertainty in the submitted plans over pedestrian facilities. As outlined above, further ground investigation and implementation of any necessary remediation justified in the interests of public health and prevention of pollution. A programme of archaeological work is required to ensure that any below ground historic interest is fully evaluated. Details of foul and surface water drainage are needed to avoid the risk of flooding.
61. Details of building levels and materials and of the proposed towpath footbridge **are required to ensure a satisfactory impact on the site's historic context.** Similarly, approval and implementation of tree protection measures and of the landscaping of the site, and of a series of measures to mitigate impacts on wildlife, are required to ensure a satisfactory integration with the natural environment.
62. The adoption of an Environmental Management Plan is justified by the need to protect the living conditions of existing residents, as is the need to approve details of external lighting. Controls over permanent occupancy of moorings and over the operation of the proposed building are needed to ensure that the development continues to accord **over time with the appellant's current** intentions and with the basis of assessment of the appeal proposal. The adoption of a Travel Plan is justified in the interests of a sustainable pattern of use of the development. However, insufficient policy basis has been offered to justify a condition on the provision of electric vehicle facilities.

### **Conclusion**

63. Having taken careful account of all matters raised, both in writing and at the Hearing, I conclude for the reasons set out above that the appeal should be allowed and planning permission granted subject to conditions.

*Brendan Lyons*

INSPECTOR

## **Annex**

### **Schedule of conditions**

1. The development hereby permitted shall commence within three years of the date of this permission.
2. Except as required by any condition attached to this permission the development shall be carried out in accordance with the following approved plans: Red Line Application Area; Overall Site Plan; Proposed Site Plan, Ref 6096-02 Rev B; Proposed Ground Floor Plan; Proposed Elevations; Proposed Towpath/Canal Bridge Details, Ref 6096-03 Rev E; Landscape Proposals Plan, Ref WM/LS/902 Rev B.
3. No development shall take place until details of highway access for vehicles and pedestrians have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.
4. No development shall take place until a Phase II ground investigation has been carried out and the results submitted to and approved in writing by the Local Planning Authority.
  - a) If the Phase II investigation recommends that remediation is necessary, then a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority. The remediation scheme shall be carried out in accordance with the approved Remediation Statement.
  - b) If during any works contamination is encountered which has not been previously identified then the additional contamination shall be fully assessed and an appropriate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.
  - c) If any remediation is required, a Site Completion Report detailing the conclusions and actions at each stage of the works, including validation works, shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of any part of the development hereby permitted.
5. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out strictly in accordance with the approved scheme.
6. No development shall take place until full details of the foul and surface water drainage of the site and a scheme to limit surface water run-off, based on the Flood risk Assessment dated 12 September 2014, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
7. No development shall take place until details of the existing ground levels, proposed ground levels and the level of proposed floor slabs have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
8. No development shall take place until full details of the proposed footbridge providing pedestrian access across the marina basin entrance have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

9. No development involving the use of any facing or roofing materials or the installation of any hard surface within the site shall take place until samples of the materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
10. No development shall take place until a tree protection plan which addresses changes to the spoil distribution through the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with BS 5837: 2012 Trees in Relation to Design, Demolition and Construction -Recommendations, and shall provide for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force. No development or other operations shall take place except in complete accordance with the approved protection scheme.
  - a) No operations shall be undertaken on site in connection with the development hereby permitted (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
  - b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
  - c) Protective fencing shall be retained intact for the full duration of the development hereby permitted and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
  - d) No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the local planning authority gives written consent to any variation.
11. No development shall take place until a scheme for the landscaping of the site has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall incorporate replacement native hedgerow planting and shall include details of hard landscaping, soft landscaping, boundary treatments, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
12. The approved landscaping plan shall be completed in accordance with the following:
  - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in

- accordance with a programme agreed with the Local Planning Authority.
- b) All trees, shrubs and hedge plants supplied shall comply with the requirements of BS 3936 Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of BS 4428: 1989 Code of Practice for General Landscape Operations (excluding hard surfaces).
  - c) All new tree plantings shall be positioned in accordance with the requirements of Table 3 of BS 5837: 2012 Trees in Relation to Design, Demolition and Construction -Recommendations.
  - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
13. Immediately prior to the commencement of development an updated badger survey shall be undertaken of the application site by a suitably qualified and experienced ecologist. A report of this survey together with any mitigation/compensation measures required shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The proposed mitigation/compensation measures shall be provided in accordance with the approved details.
14. Prior to commencement of the development a detailed scheme for depressed mussel mitigation and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The proposed mitigation shall be carried out in accordance with the approved details and timetable.
15. Prior to undertaking any works between 1st March and 31st August in any year, a detailed survey shall be undertaken to check for nesting birds. A report of the survey together with any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.
16. Prior to commencement of development, details of the position and design of a permanent barn owl roosting/nesting box, and of a temporary box for the duration of the building works in the vicinity of the site shall be submitted to and approved in writing by the Local Planning Authority. The permanent box as approved shall be fully installed in the approved position prior to the use first commencing. The temporary box must be kept free from disturbance and remain in place until at least 30 days after the permanent box has been provided.
17. No development shall commence until an Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall address the environmental impact in respect of:
- a) traffic movements and routing;
  - b) noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
  - c) waste management, including no burning of materials on site during demolition / excavation / construction;
  - d) dust generation caused by construction activities and proposed mitigation methodology;

- e) measures to prevent and remedy the deposit of dirt on nearby public highways;
- f) storage of materials and parking for site operatives;
- g) hours of working.

The Environmental Management Plan shall be implemented and in force during the clearance, excavation and construction phases of the development.

18. Prior to its installation details of the location, height, design, and luminance of any proposed lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall ensure the lighting is designed to minimise the potential loss of amenity caused by light spillage onto adjoining properties. The lighting shall thereafter be installed and operated in accordance with the approved details.
  19. The facilities building hereby permitted shall be used only for purposes ancillary to the use of the site as a marina, and shall be operated only in conjunction with the use of the site as a marina.
  20. No moorings are to be used as a sole or main residence. 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.
  21. Prior to the first occupation of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include, inter alia, a timetable for implementation and provision for monitoring and review. No part of the development hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation after occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.
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## **APPEARANCES**

### FOR THE APPELLANT:

David Taylor	Oligra Town Planning
Bob Hindhaugh	Bob Hindhaugh Associates
Susan Griffiths	Susan Griffiths Partnership
Anthony Martin	Nexus Heritage
John Barrett	Of Counsel, instructed by Oligra Town Planning

### FOR THE LOCAL PLANNING AUTHORITY:

Beverley Wilders	Principal Planning Officer
Gerard McKinney	Strategic Highways and Transportation Officer
Jan Gomulski	Principal Landscape Architect
David Hallam	Principal Design and Conservation Officer

### INTERESTED PERSONS:

Jack McEvoy	Chairman, Wrenbury cum Frith Parish Council
Neil Palmer	Local resident and shop owner
Janet Palmer	Local resident and shop owner, Parish Councillor
Rodney Copping	Save Wrenbury Action Group
Christopher Holland	Local resident
Martin Wallis	Local resident
David Edwards	Local resident
Arthur Jones	Local resident
Richard Dawson	Local farmer
Helen Brockman	Canal boat user

## **PLANS**

1. Proposed access into new Marina Drawing No. Wrenbury BH001 Rev 1
2. Proposed access into new Marina Drawing No. Wrenbury BH001 Rev 2