



Appeal Decision

Hearing held on 7 & 8 February 2012

Site visit made on 8 February 2012

by **Keith Manning BSc (Hons) BTP MRTPI**

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

Decision date: 16 March 2012

Appeal Ref: APP/H1840/A/11/2162708

Cummins Farm, Hindlip Lane, Worcester WR3 8ST

- 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 John Brodrick against the decision of Wychavon District Council.
 - The application Ref W/10/02854/PN, dated 9 December 2010, was refused by notice dated 25 May 2011.
 - The development proposed is construction of 202 berth canal boat marina basin with mooring jetties; walkways and service bollards; administration/shower block; service quay with fuel, pump out, elsan disposal; tow-path lift bridge; 101 car parking spaces; 2 non-specific residential moorings; and landscaping.
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Procedural Matter

1. Owing to failing light on the first day of the hearing, I adjourned it to the site on the second.

Decision

2. The appeal is dismissed.

Main Issues

3. I consider the main issues to be:
 - Whether the proposed development would represent inappropriate development in the Green Belt for the purposes of Planning Policy Guidance Note 2 (PPG2) *Green Belts* and development plan policy; and
 - If the proposed development would represent inappropriate development, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
4. If it is necessary to examine the second of these issues, I consider particular attention would need to be paid to the following matters:
 - a) Alternative sites considered
 - b) The need/demand for the proposed marina
 - c) Any other harm arising from the proposed development
 - d) Any specific benefits arising from the proposed development

Reasons

5. The application at issue, which was accompanied by an environmental statement, concerns the proposed excavation of low-lying agricultural land on the northern fringe of Worcester alongside the Worcester & Birmingham Canal to create an extensive marina basin and the accompanying facilities as described. Vehicular access would be via a purpose-built link, largely alongside existing hedgerows, to Hindlip Lane. The marina would be set down from the elevated carriageway of the A449, from which it would be separated by mainly deciduous woodland associated with the Barbourne Brook. On the opposite side of the canal, a major new sports stadium has been constructed, together with a 'park and ride facility'. The land is within the Green Belt.

Whether inappropriate development

6. The council has drawn my attention to a number of appeal decisions¹, in which similar forms of development have been considered inappropriate for the purposes of Green Belt policy and the appellant referred to such a development proposal in Swindon where an alternative view was apparently taken by the local planning authority, albeit the detailed circumstances of that have not been made available to me. In any event, I am obliged to consider the issue from first principles in relation to the specific proposal before me.
7. Those principles are set out in PPG2. At paragraph 3.4 it is made clear that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of a number of specified purposes. These include essential facilities for outdoor sport and outdoor recreation. Paragraph 3.5 explains that such facilities should be genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Examples are given of small changing rooms, unobtrusive spectator accommodation and small stables, but these are only examples of what might be considered to be not inappropriate. Many other essential facilities for outdoor sport and outdoor recreation would potentially fall within that category.
8. I am in no doubt that the canal boating which the proposed marina would serve is, for the most part, an outdoor recreation. Moreover, as such, it involves a use of land that preserves the openness of Green Belts, in the sense that the canals are by and large an existing, albeit engineered, water feature within them. To the extent that the proposed marina would require buildings that, in the context of a need for the proposed facility as a whole, would be essential to canal boating as a general activity and, what is more, relatively limited in scale, those elements of the proposed development would, to my mind, fall within the relevant category of development that is not inappropriate intended by paragraph 3.4 of PPG2, as the appellant effectively argues. However, paragraph 3.12 of PPG2 states... "*The statutory definition of development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.*" It is therefore necessary to examine the relevant elements of that statement in relation to the whole of what is proposed.

¹ APP/C3430/A/10/2136915 (Brewood), APP/P2365/A/10/2120291 (Lathom) and APP/Q4625/A/10/2128036 (Knowle).

9. The excavation of the proposed marina basin would be a significant engineering operation and would lead to a material change in the use of the land. The creation of the embankments, roadways, parking spaces and other hard surfaced areas would also be engineering operations of considerable scale, as would the creation of the extensive system of wooden jetties proposed. This leads directly to the question of whether both the change of use and the engineering operations would fail to maintain openness or would conflict with the purposes of including land in the Green Belt.
10. PPG2 emphasises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the most important attribute of Green Belts is their openness. Paragraph 1.5 of the guidance explains the five purposes of including land in Green Belts, of which two seem to me to be of potential relevance. While I do not consider the proposed marina, which would be singular in nature, and well defined and contained, to be a typically urban form of development that could be categorised as representing or resulting in the unrestricted sprawl of Worcester into the surrounding countryside, I nevertheless consider it would represent a form of encroachment upon it, insofar as it would introduce buildings and significant engineering operations onto rural land currently free of such development. To that extent, the proposed development, taken as a whole, would conflict with one of the purposes of including land in the Green Belt.
11. PPG2 makes it clear, moreover, that, as a general principle, land uses characterised by features such as extensive external storage, hardstanding and car parking, as well as buildings, might conflict with the openness of the Green Belt and the purposes of including land within it. I have already concluded that the proposed development would be a form of encroachment upon the countryside and it is very clear that significant hardstanding and car parking would be involved, together with, effectively, the mass storage of canal boats. Taken together, the impact on the essential openness of the Green Belt of all these elements, in the sense that is intended by PPG2, would be considerable and its reduction at the appeal site would therefore be significant and harmful.
12. On that basis, notwithstanding that the buildings proposed would be essential to the marina and that it, in turn, would serve the purposes of outdoor recreation, the proposed development as a whole must necessarily be classed as inappropriate for the purposes of PPG2. Saved policy D39 of the Worcestershire County Structure Plan and saved policy SR7 of the Wychavon District Local Plan ('the local plan') are broadly consistent with PPG2 in their approach and hence the proposed development would be inappropriate for the purposes of the development plan also.
13. My conclusion, based on the approach articulated in PPG2 specifically, is broadly consistent with the conclusions drawn by the Inspectors who determined the appeals to which the Council refers.
14. In this case, I am particularly conscious that the nearby park and ride scheme referred to essentially involves hardstanding and the mass storage of cars for significant periods of time. Whilst there may in that sense be some physical and functional parallels with a marina development, the relevant policy circumstances associated with park and ride are different in that, through its amendment in 2001, PPG2 (at paragraphs 3.17 – 3.20) specifically addresses such schemes and provides that, subject to satisfying the criteria (a) to (e) set out in paragraph 3.17, park and ride development is not inappropriate.

15. PPG2 states at paragraph 3.2 that inappropriate development is, by definition, harmful to the Green Belt and that it is for the applicant to demonstrate why permission should be granted. Substantial weight is to be accorded to harm to the Green Belt by inappropriate development because of the presumption against it. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Other considerations

a) Alternative sites

16. Insofar as a marina basin would represent a form of infrastructure development, albeit privately provided, serving the need to park and store boats on the public network of canals, and that there are choices as to where such a need might be accommodated on that network, I consider the matter of potential alternative sites to be a material consideration, as it would be in the case of, for example, park and ride facilities.
17. In this case, the appellant's brief assessment of alternative sites is restricted to the Worcester & Birmingham Canal from its junction with the River Severn at Diglis Basin to its junction with the newly opened Droitwich Canals. No suitable alternative sites for a marina are identified, either within the urban area of Worcester or within the open countryside between Worcester and Droitwich Spa. The latter area is comprehensively protected by the Green Belt in any event. In that sense, any such opportunities for a comparable marina development falling within it would confer no advantage over the appeal site in terms of not being inappropriate.
18. The long section between Lock 16 and Hanbury Wharf is considered to be generally unsuitable owing to poor road access, the adjacency of the railway line for much of its length and adverse topography, albeit I have no cogent evidence in the form of a detailed elimination of specific potential sites for those reasons. Finally, the area near Hanbury Wharf is stated to be within the sphere of influence of the Droitwich Marina (which is now at an advanced stage of construction). While the appellant suggested at the hearing that there is an element of potential complementarity between marina developments it is clear from that conclusion that there is also an element of competition, bearing in mind also that many are privately run concerns dependent for their existence on sufficient business. That reality was underlined at the hearing by the Droitwich Marina's representative. In any event, I do not consider that it would be operationally sensible to cluster marina provision at any particular location bearing in mind the need to avoid congestion of the waterway and its locks.
19. Be that as it may, the Council produced no evidence to suggest that, in the context of its relatively limited scope, the appellant's assessment of alternative sites was in any sense fundamentally flawed. Moreover, saved policy COM15 of the local plan allows for new marina development and seeks to steer such development to within or on the edge of urban areas. Insofar as the appeal site is on the northern edge of Worcester and, moreover, well placed for the nearby motorway junction and other relevant transport infrastructure, I consider it to be well placed in terms of the intentions behind criterion a) of that policy, primarily articulated through paragraph 5.2.89 of the explanatory text. I accord significant weight to the suitability of the appeal site's location in the context of those intentions.

b) *Need and demand*

20. Insofar as the marina would be for people deriving pleasure from the use of the canal network as a leisure activity, I see no particular merit in attempting to distinguish unduly between the concepts of need and demand, as the Council appears to do. If people own canal boats, which tend to be of the substantial narrowboat variety, it follows they need somewhere to legally moor them, whether 'on-line' in the canal itself or 'off-line' in marinas. So, allowing for a healthy element of beneficial choice and competition, need and demand, in my view, would have a tendency to coincide in this particular context.
21. Nor do I place particular weight on the national picture as regards available moorings and numbers of boats. A mooring in the north of the country, for example, is of little utility to an owner in the south, who might wish to use the boat on a regular basis at weekends. Moreover, the slow pace of travel on the canal system inhibits the scope for outward travel and return to base over the course of a day or a weekend. However, it appears that while statistics are available as regards the national situation, and as at March 2011, British Waterways (BW) indicated a crude surplus of moorings over craft of 5,612 (15.6%)², no directly comparable figures were made available on a local or even regional basis; albeit a document³ placed before Warwick District Council in respect of a planning application at Sands Farm suggested that in the financial year 2009/2010 the surplus of moorings to relevant licences in the whole of England and Wales was, at 4%, significantly less.
22. It is apparent, however, and a logical inference from the geography of the canal network and the distribution of population, that need around the centre of the country is likely to be higher than in more peripheral locations. This is borne out by the BW statement which identifies the West Midlands as being amongst the more popular areas for boat owners and suggests that vacancy rates in BW and privately managed marinas are generally likely to be much lower than in more peripheral locations. Moreover, the effect of adverse economic conditions on new boat registrations appears to be waning and it seems that, to some degree at least, the demand for new boats is potentially influenced by the supply of moorings in the sense that new boat orders are likely to be slowed if there is a shortage of moorings.
23. Although the BW statement sets general comments about the West Midlands as a whole in the context of the national picture, it sheds little light on whether there is actually a need for more capacity in the region, let alone that part of it which could reasonably be served by the proposed marina at the appeal site. Moreover, I do not consider the auction results referred to in the appellant's "*Justification for Need and Demand Document*" (JNDD) to be a reliable indicator of need given the dramatic differences between online views and the few bids received, especially as only one relates specifically to the Worcester and Birmingham Canal. I do note that the lockage movements on the canal show an increase of 8% at Offerton Lock in 2009 over the previous year despite the number of new boats licensed nationally having decreased significantly between 2008 and 2009. However, the reasons for that are unclear.
24. Appendix 5 to the JNDD is the *British Waterways Market Area Report for West Midlands*, the context for which is the re-pricing of 12 month mooring permits

² Appendix 4 to submitted "*Justification for Need and Demand Document*": Statement from British Waterways National Boating Trade Manager entitled 'Proposed Marina at Cummins Farm, Hindlip'

³ Document 3

- in 2009. It indicates that the total BW long term moorings capacity for the region is 313, to which must be added the private operator provision of 280 online and 550 offline basin or marina moorings, making 1,143 berths in total.
25. Significantly, that figure does not include the 238 berths shortly to be provided at Droitwich Marina, which would represent an increase in capacity of around 20%. Moreover, I note that the new 21 mile Mid Worcestershire Cruising Ring facilitated by the restoration and re-opening of the Droitwich Canals is towards the south western extremity of the region, albeit connected to the Severn which continues southwards past Diglis Basin. While the region as a whole is characterised by BW in its market area report for 2009 as being predominantly within the Birmingham and West Midlands conurbation "*where it forms a central hub of narrow canals giving access to the length and breadth of the country*", it appears that Worcester is relatively peripheral to this, especially if the West Midlands is taken together with the adjacent Central Counties region to the east. Other than the general proposition that the West Midlands as a whole is a relatively busy region, there is no geographical connection made between the location of canal berths and the distribution of boat owners. Nor is there any specific or systematic geographical analysis of evidence in the form of waiting lists for existing and planned marina capacity, for example.
26. That said, the case studies in Appendix 7 of the JNDD describe the Nottingham Castle Marina as full with no vacancies, albeit no waiting list is kept. In closer proximity to the appeal site, the Alvechurch Marina on the Worcester & Birmingham Canal is stated to be full with 70 people waiting. The case study states... "*The waiting list therefore contains more boats than the current capacity of the marina, which indicates there is sufficient un-met demand to more than double the number of berths available to berth-holders*". The marina is accessible by road and rail and its popularity is said to be explained by its central location on the Worcester & Birmingham Canal and the variety of different cruising rings within the local area. Clearly there is pressure for berths in the area served by Alvechurch.
27. Be that as it may, Alvechurch lies between Droitwich and the concentration of population and canals in the West Midlands conurbation and, although many berth-holders are said to come from "*much further afield*" than those living locally, there is no meaningful analysis or further detail regarding that point. Moreover, between Alvechurch and Worcester, the significant boost to marina capacity represented by the completion of the Droitwich Marina is imminent, equivalent to well over three times the unmet demand identified at Alvechurch.
28. It appears that 22 moorings are to be lost from the Diglis Basin marina but this represents less than 11% of the proposed marina capacity at the appeal site and 5% of the capacity of the appeal site and the Droitwich Marina combined.
29. I am conscious that a further factor to be fed into the equation regarding need is the apparent desire of BW to reduce the number of on-line berths in the interests of reducing and averting congestion on the canal system. I was told that a formula of one on-line berth being given up on an opportunistic basis for every ten new marina berths created is the operative norm at present. On the face of it, that would potentially require a very large increase in marina provision, in the West Midlands region alone, to carry it through to its ultimate conclusion, but I have no evidence of that being a wholly desirable intention embodied in formal policy, of the geographic manifestation of any such extreme progress, or of the impact on marina viability. Therefore, although

British Waterways states that it is policy to "*limit the growth in linear moorings*", I am able to accord little weight to the point.

30. In short, while I acknowledge the difficulties conceded by the appellant's representatives at the hearing regarding the quantitative and geographic demonstration of need, in part due to the fragmentation and limited availability of relevant information due to commercial competition between providers, I am not persuaded that the JNDD incorporates the necessary information upon which conclusions may confidently be drawn. Whilst it does contain some relevant statistics and general observations regarding demand in the West Midlands region of the canal system, it does not amount to the systematic and rigorous analysis of all the most relevant factors that would underpin a cogent case that there is a demonstrable need for a canal marina of the scale proposed in the Worcester area, irrespective of whether or not need for this purpose is effectively considered to be synonymous with demand.
31. I appreciate that commercial funding is unlikely to be forthcoming for a marina not perceived to have adequate prospects of competing effectively with other such facilities, but I am not party to the confidential commercial data underlying the appellant's business plan and matters of commercial competition are not generally matters for the planning system to involve itself in directly. Nor is it for the planning system to consciously shield established and emerging operators from such competition, albeit that can be a by-product of planning policy intended, for example, to prevent the undesirable proliferation of facilities such as roadside services in the open countryside. Nevertheless, where inappropriate development in the Green Belt is at issue, demonstrably compelling need is frequently an important consideration in justifying such development on the basis of very special circumstances and I see no reason for the proposed development in this case not to have to address that matter just as effectively. The onus to do so, moreover, lies firmly on the applicant.
32. I am conscious in this context that the supporting statement to the planning application does indicate that on the Worcester and Birmingham Canal itself there were no vacancies at the off-line marinas at Alvechurch or Diglis Basin or on-line at Worcester or Hanbury Wharf. However, even if it is assumed that the proposed marina would ultimately replace all the 50 on-line berths at the latter two combined; compensate the loss of capacity anticipated at Diglis Basin; and accommodate all those on the waiting list for Alvechurch; this would only account for 142 of the 202 berths proposed at the appeal site, without any account being taken of the boost to local marina capacity of the 238 berths now firmly in prospect at Droitwich. Notwithstanding the broader picture portrayed, including the prospective growth in the 50 plus age group nationally that is said to be a key factor in canal boat demand, potential demand driven by the broader picture in the West Midlands and adjacent canal regions, and what might arguably be classified as an element of demonstrable need locally, together with demand that may be latent or hidden, albeit unaccounted for; the known local capacity in prospect to address such need and demand, appears, on the face of it, to be very significant.
33. For the above reasons, I am not persuaded that a compelling need or demand for a further marina on the Worcester & Birmingham Canal has been demonstrated. I accord only limited weight to the disparate strands of evidence that have been put forward that such need is likely to be stronger in

the West Midlands generally and on the Worcester and Birmingham Canal in particular than is the case nationally. In doing so, I am conscious that (subject to the imposition of conditions) BW has no objection to the proposed development in its capacity as a statutory consultee⁴ and supports the proposed development in its capacity as navigation authority⁵. However, as with the separate statement on need included at Appendix 4 of the JNDD previously referred to, this support is cast in general terms in the context of national trends, albeit the ability to provide more specific assessment is alluded to. I am also conscious that the Inland Waterways Association incorporating the Worcester, Birmingham and Droitwich Canals Society expresses similar support, but again in rather generalised terms.

34. In view of the above considerations, and especially in view of the imminent new capacity at Droitwich marina, I consider a more rigorous and systematic approach to be necessary if significant weight is to be placed on the matter of need and demand. While I have no doubt that the proposed marina would enhance and improve access to the waterway as required by criterion b) of local plan policy COM15, I remain unconvinced, on the basis of the information submitted and what I was told at the hearing, that the proposal would meet a demonstrated need as required by criterion c). I therefore place only limited weight on the claimed need and demand for the proposed marina at issue.

c) Any other harm in addition to being inappropriate in a Green Belt

35. I was impressed by the evident care that has gone into the planning and detailed design of the proposed development. It is well located in many respects, not least in respect of the locational criterion embodied in policy COM15 of the local plan. The visual impact statement submitted with the application demonstrates that its location would render it as inconspicuous in the surrounding countryside as could reasonably be expected and I am conscious that the Council accepts that, with landscaping as proposed, the visual impact of the proposed marina on the wider landscape would, in context, not be unduly harmful. PPG2 emphasises that the visual amenities of the Green Belt should not be harmed by reason of the siting, materials or design of new development and, having considered the proposal with its supporting analysis and proposed mitigation measures, and having visited the site and surrounding area, I consider that the proposed development would accord with that objective.
36. Although there has been some adverse comment by third parties, for example in relation to potential effects in respect of traffic generation and drainage, I have no clear evidence that those or other particular forms of harm could not be mitigated by the imposition of suitable planning conditions. However, the Council maintains that any development would need to address potential harm whether in the Green Belt or not and the appellant accepted the logical corollary that lack of harm per se would not contribute to very special circumstances. Albeit that, in the context of demonstrable overriding need, the lesser harm attributable to one of a number of alternatives is capable of doing so, I have no reason to disagree with those general propositions and in any event have concluded that such compelling need has not been demonstrated.

⁴ Letter to Council dated 22 March 2011

⁵ Letter to Council dated 23 March 2011

37. The proposed development has been designed with sustainability in mind and would be constructed and operated so as to observe, as far as possible, sustainable development principles and practice. There is no reason to consider the proposed development to be harmfully unsustainable in those respects.

d) Specific benefits

38. The appellant identifies benefits not otherwise encompassed by or associated with the proposition that the marina is a necessary facility of benefit to boat users and the canal system. Principal amongst these are; beneficial diversification of the Cummins Farm agricultural enterprise; the potential benefits to the local economy; increased access to the countryside; enhanced biodiversity and the practical benefit of some flooding alleviation.

39. Rural enterprise, including leisure, tourism, and farm diversification in the interests of a sustainable rural economy is encouraged by Planning Policy Statement 4 (PPS4) *Planning for sustainable Economic Growth* and by Planning Policy Statement 7 (PPS7) *Sustainable Development in Rural Areas*. The latter specifically advises⁶ that where farm diversification proposals in the Green Belt would result in inappropriate development in terms of PPG2, any wider benefits of the diversification may contribute to the very special circumstances required by PPG2 for a development to be granted planning permission.

40. I note the Council's position, reinforced by the Inspector's conclusion in the appeal decision⁷ at Brewood previously referred to, that a marina is a form of development that could readily be hived off as a separate enterprise from the host farm holding, but I have no evidence to suggest that this is currently an intention in this case. Nevertheless, circumstances and intentions can change and I accept that a degree of caution is necessary in embracing a development proposal of this type as purely a diversification of the farm enterprise, bearing in mind that the development of a marina within the farm holding is not necessarily born of a clear affinity with the farming activity undertaken but rather capitalises upon the availability of an operationally suitable site within it. Whilst that necessary caution to some extent diminishes the weight that might otherwise be attached to the prospect of farm diversification through the construction and operation of the proposed marina, its potential contribution to the wider rural economy and that of the area generally is pertinent nonetheless.

41. I have no doubt that the proposed marina would bring with it some significant benefits to the local economy in terms of job creation, potentially as significant as those quantified through the extrapolation of figures from the British Marine Federation report on Economic Benefits of Inland Marinas in the UK referred to by the appellant, both in the important tourism sector and in support services for canal users; albeit it seems to me that such benefits would inevitably be diluted if the take-up of the berths relied for the most part on competitive diversion from existing and prospective moorings. Case studies of Alvechurch and Nottingham Castle marinas are also presented. I note that the former has a large proportion of non-boating users and both offer a wider range of services than would be the case at the appeal site. I do not consider either to be representative of the likely economic benefits of the appeal proposal.

⁶ paragraph 30 (iii)

⁷ APP/C3430/A/10/2136915

Nevertheless, economic development is an important consideration and while I therefore accord significant weight to such economic benefits as might be expected from the proposed development at issue, that weight is necessarily diminished by the broader considerations arising from the lack of demonstrable need and demand I have identified and the limitations of simply extrapolating generic data in that context.

42. Insofar as the use of the canal system for leisure purposes is a form of access to the countryside for boat users, then additional provision and choice of marina facilities would aid the objective of promoting enjoyment of the countryside. However, the marina as proposed would be a discrete operational facility, principally accessible via the canal and the proposed access track, and I attach only limited weight to that as opposed to the weight that might be accorded to a more generally accessible facility for the community at large, although I accept that it would create additional interest in a location which is well connected to Worcester via the canal towpath and where leisure activities are pursued.
43. Bearing in mind the current use of the site as arable land, I have no doubt that the creation of the water body and the aquatic planting and landscaping scheme proposed would bring significant benefits in terms of habitat creation, thereby serving the interests of biodiversity. Moreover, the specialist survey commissioned in response to concerns raised by the Council confirms that there would be no adverse impact on the otter population and probable long term benefits in terms of food supply, albeit I consider an artificial holt on Barbourne Brook could be readily created at any time and should not be considered a direct beneficial consequence of the proposed marina. Nevertheless, the biodiversity benefits, principally aquatic, that would be a direct consequence of the proposed marina, merit some weight in the decision making balance.
44. The hydraulic modelling report submitted with the application confirms that the overall off-site impact would be a small reduction in flood risk from both Barbourne Brook and the canal itself. However, while this would undoubtedly be beneficial, I have no evidence to suggest that this is a matter to which significant weight should be attached.

Other matters

45. In addition to the principal considerations a) – d) I have examined above, a number of other matters merit consideration in the overall of assessment of whether or not very special circumstances exist.
46. First, there is the matter of precedent raised by the appellant, who rightly points out that the outcome of this case cannot be constrained by the appeal decisions referred to by the Council, as these are for different sites in different circumstances, albeit the reasoning within them is a material consideration. Equally, the approval of marina developments in the Green Belt elsewhere has little bearing on the specific justification that would be required in this case. I have no information regarding the Swindon case referred to, which I understand to have been a local decision, and little in the way of information regarding the circumstances of Alvechurch. The approval by the Council of the Droitwich Marina is a matter about which I was able to elicit a clearer picture,

as the officer's report⁸ was provided at the hearing, together with the Council's Supplementary Planning Guidance (SPG)⁹ in respect of the Droitwich Canals.

47. As a consequence of reference within the SPG to the possibility of a 90 berth marina in the location, the marina under construction has been portrayed as "plan-led" in its inception, notwithstanding that the SPG concedes that it cannot be considered to be within or adjacent to an urban area and "exceptional circumstances" justifying a "departure from current policy" are set out in the Hanbury Locks section of the SPG, together with detailed requirements. Be that as it may, the 'Policy Issues' section of the officer's report details the manner in which its location in the Green Belt and other policy matters were in practice addressed at the time and the proposed marina was granted planning permission and is imminently available. That is a matter of fact that cannot be disregarded.
48. The JNDD in this case refers to an apparent agreement to include the Cummins Farm Location in the Council's Core Strategy Preferred Option, but it is clear from the correspondence included in the relevant appendix¹⁰ that the suggestion was treated simply as a consultation response in the formulation of the strategy, with no commitment to its ultimate inclusion. Notwithstanding the virtues of bringing a proposal such as this forward through the development plan system, I am unable to attach weight to that element of the JNDD.
49. In view of the above considerations, I am obliged to conclude that there is no justification for the proposed development in a Green Belt location on the basis of precedent to which any significant weight may be accorded, notwithstanding the fact that the Droitwich Marina is also in the Green Belt. Conversely, the fact of its existence must be taken into account, as I have done, in the need and demand equation I am obliged to consider in the assessment of whether or not there are very special circumstances to justify the Cummins Farm proposal.
50. I am also obliged¹¹ to pay special attention in the determination of this appeal to the desirability of preserving or enhancing the character or appearance of the Worcester & Birmingham Canal Conservation Area, which is narrowly defined at this location to primarily include the canal itself and associated engineering works. It seems to me that the addition of a marina for canal boats would be in keeping with both the character and the appearance of the canal, notwithstanding that it would be a modern addition. On that basis, whilst arguably not an enhancement in the relevant terms, as both the character and appearance of the canal require nothing further in the way of enhancement as it passes through agricultural land, I do not consider that the proposal, bearing in mind my conclusions on visual impact, would detract from either. In terms of very special circumstances, I consider the potential effect on the conservation area to be broadly neutral and therefore of little weight.
51. Finally, reference has been made by the parties to the Draft National Planning Policy Framework (NPPF), published for consultation purposes last year. In view of its consultative status I accord it only limited weight but, in any event, whilst I note the emphasis on a positive approach to development with economic growth benefits, including in rural areas, I also note the commitment

⁸ Document 4

⁹ Document 5

¹⁰ Letter from Land & Water Estates to Council dated 27 March 2009/email reply 15 April 2009 @ 13:04

¹¹ Planning (Listed Buildings and Conservation Areas) Act 1990: Section 72

to the continuing protection of Green Belts and in particular that inappropriate development is, by definition, harmful to them and should not be approved except in very special circumstances.

Planning balance and overall conclusion

52. The concept of very special circumstances goes well beyond the identification of a number of advantages to any particular proposal. The harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations if very special circumstances are to exist. In this case, the harm I have identified is harm by reason of inappropriateness. Integral to my conclusion that the proposed development would be inappropriate is the conclusion that the development involves a change of use of the land which necessarily comprises engineering operations, activities and buildings which, taken as whole, would encroach upon the countryside and would have a significant and therefore harmful effect upon the essential openness of the Green Belt. Beyond that, no other significant harm would be caused by the proposed marina development.
53. However, harm by reason of inappropriateness is a form of harm to the Green Belt to which substantial weight must be attached, and that is necessarily the starting point.
54. The proposed development is meritorious in a number of specific respects as I have identified, including the proposed deployment of sustainable development principles and practices in its construction and operation and it would, moreover, be located on the edge of the urban area of Worcester. The former quality would accord with numerous policy objectives. However, such requirements would be common to any such proposed development and that is therefore a matter to which I attach only limited weight. The latter quality would satisfy one of the criteria of local plan policy COM15 concerning development associated with waterways, including marinas. To the extent that it would satisfy the requirements of that policy in part and would also enhance and improve access to the waterway, thereby satisfying its second criterion in a location preferred by the policy, I accord it significant weight.
55. The fact that most alternative sites of comparable capacity are likely to be in the Green Belt is also a matter to which I attach some weight, but in the circumstances of this case that weight is reduced by the potential of the imminently available marina capacity at Droitwich to serve need and demand in essentially the same part of the canal network. In that sense it seems to me that it may properly be considered alongside the alternative locations specifically considered by the appellant.
56. The weight I attach to the diversification of the Cummins Farm enterprise itself is diminished by a degree of caution as to how enduring the apparent affinity with the farm business might be. Nevertheless, I accord significant weight to the potential benefits to rural enterprise and the local economy that could result from the proposed development, albeit that weight is diminished by my doubts as to the capacity of the area to support such a major increase in marina capacity over the foreseeable future, notwithstanding the undoubted benefits of competition and choice.
57. I attach only limited weight to the potential of the proposed development to promote and facilitate recreation in the countryside by the community at large

but some weight to the potential biodiversity benefits and the beneficial effects in terms of flood risk reduction, albeit neither advantage is in my view an advantage to which, on its specific merits, unduly significant weight should be attached.

58. I attach no weight to the fact that other marina developments have been allowed in the Green Belt, including in Wychavon. Those decisions have been taken, and for reasons specific to their circumstances. (Nor, for essentially the same reason, do I attach particular weight to appeal decisions elsewhere, albeit the broad reasoning deployed therein is a material consideration if policy circumstances are analogous.) Likewise, I attach no weight to the mere fact that the Cummins Farm site has been suggested to the Council for inclusion in the development plan. Such a suggestion could only carry weight if it was carried forward. Finally, I accord little weight to the potential effect on the conservation area that corresponds to the line of the canal and note that the prospective NPPF, to the extent that it may be accorded weight, suggests no significant change in the way that decisions on inappropriate development in the Green Belt should be approached.
59. It seems to me that the proposed development has a number of advantages and would cause no demonstrably significant harm beyond the harm to the Green Belt by reason of encroachment, loss of openness and consequential inappropriateness. However, substantial weight must be attached to that harm and certain of the advantages do not attach themselves uniquely to the development proposed, albeit the location accords particularly well with the first intention of local plan policy COM15. Moreover, the onus is on the appellant to demonstrate that other considerations, in aggregate, are so advantageous in planning terms that they clearly outweigh the harm by reason of inappropriateness so as to justify the proposed development.
60. While I have taken all other matters raised into account and consider that the advantages I have identified are reinforced by the lack of harm in general and may in principle contribute to very special circumstances, I also consider that the key ingredient necessary, as a minimum, to tip the balance decisively, and thereby clearly outweigh the substantial harm by reason of inappropriateness, is missing.
61. That ingredient is a demonstrable need, regarding which I acknowledge that the distinction between perceived demand and more objectively measured need, as the Council would prefer, is less clear than in most circumstances. While I also acknowledge that the proposed development is supported by British Waterways and others knowledgeable about the canal system, it seems to me that the support is broadly based on a knowledge that the West Midlands as a whole is a busy region and the general principle of favouring off-line berth capacity, but that no explicit recognition of the imminent boost to marina capacity at Droitwich has been accounted for.
62. However, in the circumstances, I consider that an indisputably strong and analytical case for the addition of comparable capacity at Worcester, specifically, encompassing local operational criteria and supported by a systematic and rigorously consistent quantitative and geographically focused evidence base, would be a pre-requisite to a sufficiently compelling demonstration of need to which significant weight could be attached.

63. In the absence of such a coherent and spatially defined strategic expression of the operational and market need for marina capacity which specifically addresses the Birmingham and Worcester Canal between the West Midlands conurbation and the Severn, taking into account the forthcoming Droitwich Marina, I am unable to conclude that there is a compelling need for the proposed development.
64. That being so, I am unable to conclude that the harm to the Green Belt by reason of inappropriateness I have identified is clearly outweighed by other considerations. Therefore very special circumstances have not been demonstrated to exist by the appellant, so as to justify the proposed development, and, on that basis alone, I conclude that the appeal must fail.

Keith Manning

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr C Whitehouse BSc (Hons) NextPhase Development
MRICS
Mr N Warren MRAC MRICS Land & Water Estates
Mr James Brodrick BSc (Hons)
MEPS NDA
Mr John Brodrick

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Rees MRTPI

INTERESTED PERSONS:

Mr N Blackie, Solicitor LLB LARTPI	Representing Droitwich Spa Marina*
Mr Bostle Miss B Meddings	Ramblers' Association, Worcestershire Area Chairman, Hindlip, Martin Hussingtree and Salwarpe Parish Council
Mr J Weston	Droitwich Spa Marina
Mrs C McFarlane	Local resident
Mr M Bruckshaw	Local resident

* referred to in decision for consistency with submitted Alternative Sites Assessment simply as 'Droitwich Marina'

DOCUMENTS

- 1 Original representation in respect of planning application by Hindlip, Martin Hussingtree and Salwarpe Parish Council
- 2 Submission by Mr J R Weston dated 11 January 2012
- 3 '6th May 2011- British Waterways' (BW's) response to the document: *"UPDATED EVIDENCE OF LACK OF NEED OR DEMAND FOR A MARINA AT SANDS FARM IN WARWICK DISTRICT (MARCH 2011)"* submitted to Warwick DC on 22nd March 2011 in relation to Planning Application W/09/1258'
- 4 Officer's report on planning application for Droitwich Spa Marina
- 5 Droitwich Canals Supplementary Planning Guidance: September 2004
- 6 Extract from map showing boatyard services on regional canal network
- 7 Extract from map of national canal network