



24 February 2015

Agenda Item:

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

RUSHCLIFFE DISTRICT REF. NO.: 8/12/00856/CMA

**PROPOSAL: RESUBMISSION OF APPLICATION FOR THE CONSTRUCTION OF A
LEISURE MARINA COMPRISING MARINA BASIN WITH 553 LEISURE
MOORINGS AND ANCILLARY BUILDINGS, ASSOCIATED VEHICLE
PARKING, LANDSCAPING AND INFRASTRUCTURE AND THE
INCIDENTAL EXCAVATION AND REMOVAL OF MINERALS.**

LOCATION: RED HILL MARINA, RATCLIFFE-ON-SOAR

**APPLICANT/: RED HILL MARINE LTD
APPELLANT**

Purpose of Report

1. To update Members of Planning and Licensing Committee on the outcome of an appeal relating to the extraction of minerals and construction of a marina at Red Hill Marina, Ratcliffe-on-Soar. The appeal was lodged on the grounds of non-determination of the planning application.
2. The Planning Inspector concluded that the appeal should be dismissed.

The Site and Surroundings

3. Red Hill Marina lies within the Green Belt adjacent to the River Soar at Ratcliffe-on-Soar (see Plan 1). A detailed description of the appeal site and surroundings is set out within the Appeal Decision (see Appendix 1).

Proposed Development

4. The planning application, which was accompanied by an Environmental Statement, sought permission for the construction of a leisure marina comprising marina basin with 553 moorings, ancillary buildings, parking for 244 cars and the excavation of some 860,000 tonnes of material (500,000 tonnes of sand and gravel). Plan 2 shows the layout of the proposed marina and a detailed description of the proposed development is contained within the Appeal Decision.

Background

5. A resubmitted planning application for the creation of a marina through minerals extraction was received by the County Council as Minerals Planning Authority (MPA) in April 2012. A number of issues had to be resolved preventing the application from being validated until 14th May 2012.
6. Throughout the application processing period there were significant objections from a wide range of bodies including, although not limited to, Rushcliffe Borough Council, Natural England, English Heritage, the Environment Agency and East Midlands Airport. Many of the consultees considered the level of information insufficient, inadequate, missing or out of date.
7. The responses received from consultees were passed on to the applicant to ensure that they were aware of the additional information which needed to be submitted and to give them the opportunity to prepare and submit any necessary reports or assessments. The only consultation response that the applicant responded to was from Rushcliffe Borough Council which objected to the development on the grounds that it is inappropriate development in the Green Belt.
8. On the 28th January 2013 the Government announced the initial preferred route for the High Speed 2 (HS2) rail line from the West Midlands to Leeds. It showed the preferred route running centrally through the application site.
9. The applicant submitted an appeal to the Planning Inspectorate (PINS) on 14th March 2013 for non-determination of the application.
10. The MPA was reluctant to refuse the application because of insufficient information, instead seeking to give the applicant generous opportunity to consider its response to the necessary information so that a full and proper decision could be made based on the relative merits of the development, accordance with policy, consultation responses and representations and any other material considerations. This approach is in line with the requirement to work positively and proactively with applicants, as set out in the National Planning Policy Framework (NPPF).
11. As the appeal was against non-determination, the appellant was not appealing against a refusal. However, in May 2013, Committee expressed support for the position taken by Officers in affording the applicant opportunity to address deficiencies in the application and unanimously resolved to support the recommendation that, had the planning application been presented to Committee prior to the appeal being lodged, the application would have been refused due to insufficient information.
12. The appeal was initially conducted by written representations, and submissions were exchanged in May 2013. However, in October 2013 the Planning Inspectorate decided to change the procedure and conduct the appeal as a Hearing. The Hearing took place on the 8 – 10th July, and 1st September 2014. The Appeal remained open so that further written representations could be made in relation to ownership details, Green Belt case law, and the adoption of the Rushcliffe Local Plan Part 1: Core Strategy (RCS). The Hearing was formally closed on 12th January 2015.

Appeal Decision Summary

13. The proposed development was found to be inappropriate in the Green Belt. Furthermore it was at odds with one of the purposes of the Green Belt and would erode its openness, therefore harming the Green Belt.
14. Overall the development was found to have an adverse impact on the character and appearance of the area, assessed as being of moderate significance.
15. During the excavation and construction phases there would likely be substantial harm to wildlife of local importance. The completed marina would provide opportunities for colonisation by flora and fauna, but would offer very different habitats to those that currently exist. In time, this is something that could be managed to benefit nature conservation. The overall effect on biodiversity of the scheme is a difficult matter to balance. There are uncertainties about how successful new habitats created would be in providing for wildlife, especially as the site would primarily function as a large marina, with all the associated activities and impacts on the local surroundings. Overall, the proposal was considered to have a neutral effect on biodiversity by the Inspector.
16. It was concluded that the proposed development would not result in an unacceptable risk to aviation safety, subject to the imposition of appropriate conditions.
17. It was acknowledged that the marina design, construction and management could all contribute to minimising the risk to property and safety from flooding. However, a net increase of 433 berths, along with the associated movement of cars and people, would make flood safety and evacuation a considerably more complex task, and increase the potential for things to go wrong in an emergency. Putting more boats, cars and people at risk in a flood zone is a consideration which weighs against the proposal. On balance the overall scheme was found to have a neutral effect in terms of flood risk and safety.
18. The appeal site has potential for archaeological remains by reason of its proximity to the Roman Shrine at Red Hill, and to the nearby site of second to fourth century Romano-British occupation, and also because it lies close to the confluence of the Soar and Trent Rivers. The proposed excavation and dewatering could harm any archaeological remains on the appeal site. Whilst the risk is difficult to quantify, given the nature of the works the risk is considered to be significant, because the possible existence of remains that would require *in situ* preservation cannot be ruled out. The risk to archaeological remains is a factor that, to some extent, weighs against the proposal.
19. It was considered unlikely that the quantity of sand and gravel to be extracted would justify investment in rail or water transport. It was also concluded that there would be no unacceptable impact on the local highway network.
20. The proposal was seen to gain support from local and national policies which encourage tourism and leisure, sport and recreation, and growth in the rural economy. The additional employment opportunities the scheme would provide would also benefit the local economy.
21. Noise from mineral extraction and construction of the marina was a matter that could be dealt with by condition, as could air quality and land contamination matters.

22. The appeal site is a suggested route for the second phase of High Speed 2 (HS2). In the absence of a safeguarding direction this is a matter that should not be decisive in dealing with the application on its planning merits.
23. Nottinghamshire County Council (at the time of the Hearing) had a sand and gravel landbank of less than the required 7 years, and the proposed development would result in the extraction of approximately 500,000 tonnes of sand and gravel, which would add approximately 9 weeks to the landbank. Notwithstanding the limited quantity of sand and gravel, the benefits of mineral extraction weigh significantly in favour of allowing the appeal, in line with the provisions of the National Planning Policy Framework.
24. There was evidence of demand for additional berths, but no evidence of an unmet need that would amount to a consideration that would weigh significantly in favour of allowing the appeal. There was also no compelling evidence of an oversupply of berths that would indicate a likelihood of harm were the facility to be constructed. The supply/demand situation was neither a consideration for, or against allowing the appeal, and it was found that it would have a neutral effect and should not weigh significantly either way in the planning balance.
25. With regard to the very special circumstances balancing exercise, the Inspector considered that the outdoor sport and recreation, along with economic benefits and employment opportunities should be given moderate weight in support of the scheme. The need for further and better marina facilities was a neutral consideration, which should be given negligible weight. The contribution to the supply of sand and gravel weighs significantly in favour of the proposals. The improved visual amenity along the river would be beneficial, but overall the scheme has an adverse effect on the character and appearance of the area. The effects on flood risk and biodiversity are neutral considerations in the balancing exercise.
26. However, in the overall balancing exercise substantial weight was given to the Green Belt. The openness of the Green Belt is already impacted by important infrastructure (Ratcliffe on Soar power station and East Midlands Parkway). In this context the Inspector accepted the County Council's view that the remaining open areas of Green Belt take on a greater significance and importance. The existing development in the Green Belt in the vicinity of the appeal site is not an argument in favour of further erosion of its openness. The impact of the proposed development on the Green Belt significantly and demonstrably outweighs the benefits of the scheme. The harm identified to the character and appearance of the area, and the risk to any archaeological remains tip the balance even further against the proposal.
27. Based on the above, the Inspector concluded that the appeal should be dismissed.

RECOMMENDATIONS

28. It is RECOMMENDED that the contents of this report are noted.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

This report is for noting only.

[SLB 02/02/2015]

Comments of the Service Director - Finance

There are no specific financial implications arising directly from this report.

[SEM 02/02/2015]

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division(s) and Member(s) Affected

Soar Valley – Councillor Andrew Brown

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For any enquiries about this report, please contact the report author.

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APPEAL DECISION – APPEAL REF: APP/L3055/A/13/2194755