

Reference: 15/00931/FUL
Date submitted: 20th November 2015
Applicant: Mr Richard Booth – Melton and Oakham Waterways Society
Location: Dock between River and Glory Hole, Wilton Road, Melton Mowbray
Proposal: New double dock on the river



Introduction:-

The application relates to the creation of a new dock adjacent to the River Eye, situated behind The Glory Hole, and to the south of the Scout Group Headquarters. The site is accessed through the Wilton Road car park, and is on the opposite side of the river bank to Egerton Park playing fields. The dock is proposed to be 7 metres x 4 metres, adjacent to the river, and sited 1 metre below the normal river level. The dock is required by the Melton and Oakham Waterways Society for the storage of river maintenance boats.

The application seeks full planning permission.

It is considered that the main issues relating to the application are:

- **Impact upon the environment and ecology**
- **Impact upon health and safety of users of nearby buildings**

The application is required to be considered by the Committee due to the level of representations received.

Relevant History:

15/00254/FUL – New dock 7 metres x 4 metres from the River Eye: Withdrawn

Development Plan Policies:

Melton Local Plan (saved policies):

Policies OS1, BE1, BE12 and UT3

OS1 states that planning permission will only be granted for development within village envelopes where:

- The form, character and appearance of the settlement is not adversely affected;
- The form, size, scale, mass, materials and architectural detailing of the development is in keeping with the character of the locality;
- The development would not have a significantly adverse effect upon the historic built environment or nature conservation features including trees;
- The development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity;
- Satisfactory access and parking can be made available.

BE1 states that planning permission will not be granted for new buildings unless among other things, they are designed to harmonise with their surroundings, they would not adversely affect the amenity of neighbours and there is adequate access and parking provisions.

BE12 relates to protected open areas, and states that planning permission will not be granted for development within any area identified as a protected open area unless it is in conjunction or associated with an existing use and the development would not adversely affect the intrinsic character of the area.

UT3 states that planning permission will not be granted for development within essential washland areas which could exacerbate flooding.

The National Planning Policy Framework was published 27th March 2012 and replaced the previous collection of PPS. It introduces a ‘presumption in favour of sustainable development’ meaning:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; *or*
 - specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that **whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail.**

It establishes 12 planning principles against which proposals should be judged. It is considered that there are no particular sections of the NPPF that relate to an application of this type.

The National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF paragraph 12).

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Highway Authority: No objection</p> <p>The Local Highway Authority has no comment to make</p>	<p>Noted.</p> <p>It is not considered that the proposal would generate significant increases in traffic to the site, nor result in any material increase in parking or turning. The site is accessed through a public car park where there is easily accessed parking should additional parking be required.</p> <p>The proposal is considered to meet the objectives of policies OS1 and BE1 in regards to highways safety.</p>

Ward Councillor: No representation received to date.	Noted.
<p>Environment Agency: No Objections</p> <p>Following receipt of an amended plan and further ecology surveys the Environment Agency have withdrawn their initial objections to the plans.</p> <p>The development is acceptable if a planning condition is included requiring the development to be undertaken in line with the submitted Phase 1 Habitat and Protected Species Survey as compiled by Sherwood Associates (Report No. SSEA/32.1/1015) dated January 2016. Furthermore, they advise that activities such as dredging or bank excavation will require the prior written consent of the EA.</p> <p>A further condition is required to prevent the raising of ground levels around the site and notwithstanding the submitted plans, to ensure that there are no structures around / above the dock which would otherwise impede flood flows without the prior consent of the EA.</p>	<p>Noted.</p> <p>The condition(s) as requested by the Environment Agency can be attached to any planning permission granted at the site. There is further information attached to their response relating to flood risk and water quality that can be included in an informative if permission is granted.</p> <p>A planning condition can specify that regardless of the plans submitted, no structures (fences etc) shall be erected around or above the dock without the prior consent of the Environment Agency.</p> <p>It is therefore considered that the proposals meet the overall objectives of policy UT3 in terms of flood risk.</p>
<p>Ecology: No Objections</p> <p>No evidence of protected species was recorded in the area of the proposed development and there are no further survey requirements for this application. A condition should however be forwarded to the applicant requiring compliance with the recommendations in the report.</p> <p>The Environment Agency should also be consulted on this application.</p>	<p>Noted.</p> <p>The conditions required by the Environment Agency cover the requirements of Ecology.</p>

Representations:

1 neighbouring building was advised about the application, and a site notice was posted at the entrance to the site. As a result, 16 objections have been received to the proposal. The objections are summarised below.

Consideration	Assessment of Head of Regulatory Services
<p>Health and Safety</p> <p>Up to 200 Beavers, Cubs and Scouts of the 4th Melton Scout Group use the area for canoeing, constructing and launching rafts, pioneering projects, building bridges over the river and lately using trees to sling hammocks. The activities will be spoilt should the development go ahead, and having a hole 3.5 metres deep next to the Scout Hut with vertical sides will not be safe.</p> <p>The Scout Headquarters have been in this location for over 50 years, the new building has been built with a canoe and kayak store and 7 adults are registered kayak and canoe instructors. The site is used every day of the summer and autumn term – the area that the Scout Group can use will be reduced and the safety of the children will be compromised.</p> <p>The Scout Hut is used by children from 6 years and over, and is also used daily by Creative Workshops whose</p>	<p>Noted.</p> <p>The site of the existing Scout Headquarters is adjacent to the river where it is considered that there are already many existing health and safety issues relating to children and water. It is not considered that sufficient evidence has been submitted to show that the creation of a dock in this location would cause a material change in the hazards posed of having the Scout Headquarters adjacent to the river bank.</p> <p>The creation of the dock may reduce the amount of river bank available to the Scouts for launching kayaks and canoes, but it is not considered that the creation of the dock would restrict the activities that take place on the river. Indeed, it may be that by providing the dock and making access to the river for maintenance boats easier, the Scout's enjoyment of the river may be improved.</p>

<p>clients are adults with learning disabilities and vulnerable adults. The car dropping off area is adjacent to the proposed dock, putting children and other clients at risk.</p> <p>The area that the Scout Group launch from will be reduced and successful launches compromised.</p> <p>Removing the poly tunnel will increase the danger as it will be open and accessible.</p> <p>The Scout Group have not been allowed to erect fences to stop children falling into the river due to flood risk issues (see below), therefore a fence should not be allowed for the dock. The lack of fence would be a complete and utter danger to anyone near it as it will be 3.5 metres deep at its deepest point and would be a risk to the life of anyone that fell into it, let alone a child.</p> <p>Who would be responsible should there be an accident in the area?</p>	<p>Notwithstanding the plans submitted, the advice from the Environment Agency is that no fences shall be erected around the dock without their prior consent, nor should there be any cover(s) over the dock (see comments above). This is to ensure that flood water has a clear path, and any debris cannot collect. It is not therefore considered that the proposal would exacerbate flooding in the area, and the proposal therefore meets the objectives of saved policy UT3 of the Melton Local Plan.</p> <p>Health and safety of children under the care / supervision of the Scouts will remain the responsibility of the Scouts.</p>
<p>Character and Appearance of the Area</p> <p>The polytunnel proposed is not in keeping with the area. It will look out of place close to the Memorial Gardens, and visible from Egerton Park.</p> <p>This is not a dock, it is a harbour for two boats which will not fit in the area. It is severely cut into the river bank and will bring the river to within a couple of metres of the Town Estate Building.</p> <p>The proposal is contrary to policy BE12, it is a protected open area.</p>	<p>Noted.</p> <p>To ensure compliance with the aims and objectives of policy UT3 of the Melton Local Plan and the Environment Agency, the polytunnel cover was removed from the amended plans. This has also helped to protect the overall character and appearance of the area as the polytunnel would have created a development with an unnatural appearance.</p> <p>The dock will be cut into the river bank, but there will be no cover, nor would any fence surrounding it without the prior approval of the Environment Agency which is unlikely to be forthcoming for the reasons as given above. The proposal is therefore considered to meet the objectives of policies OS1 and BE1 in terms of its impact upon the character and appearance of the area.</p> <p>It is not considered that the dock would have an adverse impact upon the character and appearance of the area, to the rear of buildings adjacent to the river where it is expected that river maintenance activities would take place.</p> <p>The application site is within a protected open area, and policy BE12 states that planning permission will not be granted for development within any area identified as a protected open area unless it is in conjunction or associated with an existing use and the development would not adversely affect the intrinsic character of the area. It is considered that the creation of a dock</p>

	<p>within the riverbank is associated with the river, and would not adversely affect the intrinsic character of the area. As such, the proposal is considered to meet the objectives of policy BE12 of the Melton Local Plan.</p>
<p>Ecology and Wildlife</p> <p>The proposal will have a detrimental impact upon the local environment and wildlife.</p> <p>The area allows foxes, badgers, water fowl and swans, small deer and other wildlife to access parts of the town. This proposal will restrict the natural movements of wildlife.</p> <p>There are many crayfish and newts in the area, otters have also been seen. The dock would compromise wildlife during construction and impact upon their habitat.</p> <p>If the application is approved without rigorous investigation into the potential ramifications it will prove detrimental anthropogenically, ecologically and environmentally.</p> <p>Changes to the watercourse may impact upon the catchment dynamic and result in unpredicted localised flooding. Alterations to the river channel will alter local sedimentation processes and result in local ecosystem change, proving detrimental to endemic species at that point of the river.</p>	<p>Noted.</p> <p>The application has been supported by the relevant ecology surveys as requested by both the Environment Agency and Leicestershire County Council Ecology.</p> <p>It is not considered, subject to the imposition of conditions, that the proposal would have an adverse impact upon the ecology of the river, or the wildlife in the area.</p>
<p>Flood Risk</p> <p>The dock will damage adjacent building foundations, which will be washed out during a flood and the building will subside into the river.</p> <p>A surface water drain runs through this piece of land and takes away the vast amount of rainfall that lands on the Wilton Road car park and Wilton Road, and cannot be ignored.</p> <p>The application proposes a fence around the dock. This will catch debris in the event of a flood and divert the natural path of a flood.</p> <p>The polytunnel is a ridiculous idea, if the river floods it will rise and so will the craft underneath it and may go through the top of it.</p>	<p>Noted.</p> <p>The protection of adjacent building foundations will be the responsibility of those constructing the dock. No evidence has been submitted to show that should the dock be constructed that this would lead to adjacent building foundations being washed away in a flood event.</p> <p>It is not considered that the proposal will lead to any further risk of flooding in the area. The application has been reviewed in detail by the Environment Agency who have no objections to the provision of the dock in this location.</p> <p>Please see the comments above regarding the provision of enclosures around and above the dock.</p>
<p>Other Matters</p> <p>Three old yew trees will have to be felled to cut out the dock and the roots of another large tree would also have to be cut away killing it.</p>	<p>Noted.</p> <p>It is likely that the proposal may impact upon some trees adjacent to the river bank. Whilst the trees do contribute to the character and appearance of the area, it is not considered that the potential loss</p>

The creation of a dock will attract vandalism to the area.	would alter the overall character and appearance of the area.
Why here? Why not outside Sysonby Knoll / further up the river?	No evidence has been submitted in support of this claim, and it is not understood why the creation of a small dock for river maintenance boats would cause vandalism in the area.
Is the Town Estate in support of this application?	The applicants consider that this is the most appropriate place for the proposal.
The community will gain nothing from this proposal.	The applicants have submitted a letter from Town Estate which states that they give their full support to the plans to build a dock on their land – wishing the applicants every success with the project.
The amended plans are hard to read and could be misleading.	The Melton and Oakham Waterways Society contribute to the maintenance of the river for the enjoyment of the community.
	The plans are not of the highest quality, but it is possible to understand them.

Other Material Considerations Not Raised In Consultations:

Consideration	Assessment of Head of Regulatory Services
Policy	<p>The application site is within the town envelope for Melton Mowbray, on land designated a Protected Open Area (POA) and essential washland. As such, policies OS1, BE1, BE12 and UT3 apply.</p> <p>It is considered that the proposal meets the overall objectives of policies OS1, BE1 and BE12 as it would not adversely affect the character and appearance of the area, and is in conjunction with the maintenance of the river.</p> <p>Policy UT3 relates to the management of flood risk, and the application has demonstrated that it will not contribute to increased flood risk elsewhere.</p>

Conclusion

The application proposes the creation of a dock on the River Eye on land between the river and The Glory Hole for the storage of river maintenance boats used by the Melton and Rutland Waterways Society. The application has shown that it will not increase the flood risk elsewhere, and will not have an adverse impact upon the protected species and wildlife in the area. No evidence has been submitted to show that the creation of the dock would lead to an unacceptable increase in the danger to users of the Scout Headquarters. It is not considered that the dock would have a material impact upon highways safety, nor will it have an impact upon residential privacy or amenity. It is considered that the proposal meets the overall objectives of policies OS1, BE1, BE12 and UT3 of the Melton Local Plan, and as such is recommended for approval.

RECOMMENDATION: Permit, subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The application hereby approved shall be built in accordance with the amended plans submitted to these offices on 11th February 2016.

3. No development shall commence until a Habitat Enhancement Strategy for the site has been submitted to and agreed in writing by the Local Planning Authority. This strategy must incorporate, as a minimum, the recommendations listed in Chapter 6 of the Phase 1 Habitat and Protected Species Survey as compiled by Sherwood Associates (Report No. SSEA/32.1/1015), dated January 2016.
4. Notwithstanding the amended plans the development hereby permitted shall ensure there is no raising of ground levels around the site. There must also be no covering or structure around/ above the dock which would otherwise impede flood flows without prior discussion with the Environment Agency. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

The reasons for the conditions are:-

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt; the initial plans being considered unsatisfactory.
3. This condition is necessary to ensure the proposed ecological enhancements to the site are developed in a way that contributes to the nature conservation value of the area in accordance with the National Planning Policy Framework (NPPF) paragraph 109. This requires the planning system to aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity. Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.
4. To reduce the risk of flooding to the proposed development and future users.

Officer to contact: **Mrs Sarah Legge**

Date: 11th March 2016