



DEVELOPMENT CONTROL AND REGULATORY BOARD

22 JUNE 2023

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

APP.NO.	2023/10047/04 (202/CM/0037/LCC)
DATE OF VALIDATION:	31 March 2023
PROPOSAL:	Retention of existing hardstanding, including existing and proposed landscaping
LOCATION:	Bosworth Marina, Carlton Road, Market Bosworth, Leicestershire, CV13 6PG
APPLICANT:	Bosworth Marina
RECOMMENDATION:	Permit, subject to conditions

Circulation Under Local Issues Alert Procedure

Mr. B. Harrison-Rushton CC

The Site and Surroundings

1. Bosworth Marina comprises an established canal boat marina for tourist (non-residential) boat moorings. The overall site comprises an approximately 7.5 hectare facility with mooring access taken from the Ashby de la Zouch Canal. Mooring facilities are taken from the main canal to the east and form a water-based L-shape with administration building, clubhouse and car parking within the 'L' between canal and marina facilities.
2. The north and western parts of the site are formed of amenity grassland, flood storage, wetlands and landscaping. The main access to the site is from Carlton Road with the application site being contained at this point and to the south.
3. The marina is set at the western entrance to the village of Market Bosworth opposing the sports club on Wellsborough Road.
4. The site is set outside of the main village of Market Bosworth. It is not located within the Conservation Area and is in flood zone 1 (low probability of flooding).

Background and Planning History

5. The marina site has a long history, originally dealt with as an application by the Borough Council in 2002. Ongoing revisions during this time between the Borough Council and the applicant eventually resulted in the application being dealt with by the County Council due to the requirement for the importation of 35,000 cubic metres of inert waste material.
6. Planning application 2011/0077/04 (2011/C421/04) was submitted to the County Council in February 2011 and granted permission on 22 May 2012. The application was EIA development and included an Environmental Statement.
7. The application was granted permission subject to numerous conditions which included condition 5 requiring the submission of a landscaping scheme. This was submitted, shown on plan TNA_413_01, and other supporting documents, and agreed on 17 May 2013. Condition 6 required the implementation of the landscaping scheme in the first available planting season following completion of the clubhouse building.
8. The clubhouse building was, according to Borough Council records, substantially complete around September 2014. Alterations to the use of the first floor of this building were proposed to the Borough Council in 2016 and 2018 to change this from offices to a café and then back again (reference 16/00088/FUL and 18/00933/FUL respectively).
9. Landscaping was implemented in stages following the completion of the building and has continued in a fairly piecemeal fashion over the intervening 8-9 years.
10. An application for a new café building was proposed to the north-west corner of the site in 2019 and submitted to Hinckley and Bosworth Borough Council. This application was refused permission due to it not being demonstrated there was a need for the café, the position of the building intruding on the rural areas beyond and not conserving or enhancing features of nature conservation. A revised application was submitted in 2021 (21/00050/FUL) and was refused permission for the same/similar reasons.
11. The landscaping scheme required to be implemented by virtue of planning permission 2011/0077/04 remained only partially implemented over the approximately eight years within which it was due. Although parts were complete, substantial gaps existed predominantly around the northern part of the site adjacent to the canal, Carlton Road and along northern field boundary.
12. As such, a Breach of Condition Notice (BCN) was issued, served by the County Council in May 2022, which required the implementation of the landscaping scheme. The notice required:

“Implement the landscaping during the next available planting season in accordance with the details supplied and approved pursuant to condition 5 of the planning permission. For the avoidance of doubt, this comprises those details shown on Plan TNA-413-01 dated March 2013 and Specification detailed in report TNA-414 dated March 2013. Any such planting which within

a period of 10 years of implementation of the landscaping dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species.”

13. Subsequently, the applicant sought to modify condition 5 of permission 2011/0077/04 to revise the landscaping scheme. This was approved on the basis that, as planting around the northern and eastern water storage areas were above prevailing ground level (i.e. at the water level in the canal), they could not be safely implemented without potential damage to banks. The landscaping scheme also made some revisions to planting within the site.
14. The BCN specified a date for compliance of 31 December 2022. This was largely complied with and subsequent monitoring by officers of the Council ensured full implementation. This was achieved prior to March 2023 (within the 2022/23 planting season). Much of the planting remains immature but is in good condition and is broadly considered to have secured compliance with the terms of the BCN. This notwithstanding, the BCN remains extant and planting remains to become fully established.
15. The landscaping scheme also indicated the retention of an area of hardstanding near the vehicle entrance to Carlton Road. This element of the scheme was not considered to fall within the ambit of conditions 5 or 6 of the permission and hence the requirement for this application.

Description of Proposal

16. The application seeks to retain an area of hardstanding, presently formed of compacted gravel. The area of hardstanding has dimensions of approximately 20 by 26 metres and total area of 596 square metres.
17. The area of hardstanding is to be used as boat storage for canal boats prior to them being lowered into the water in the marina. This is estimated to occur a total of 1 to 5 times in any calendar year. The process involves an HGV entering the marina site, performing a turn within the site before entering the hardstand area in forward gear for removal of the boat. All turning manoeuvres are contained within the wider marina site away from the public highway.
18. The hardstand area is shown to be planted to all sites with a variety of landscaping including tree planting and hedgerow. This planting is already in place (albeit immature at present) in order to comply with the abovementioned conditions on the wider marina site and Breach of Condition Notice.

Planning Policy

19. Hinckley and Bosworth Local Development Framework Core Strategy (adopted December 2009) – referred to as ‘the Core Strategy’
 - Policy 11: Key Rural Centres Stand Alone
 - Policy 23: Tourism Development
20. Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document (adopted July 2016) – referred to as the DPD’
 - DM4 Safeguarding the Countryside and Settlement Separation
 - DM6 Enhancement of Biodiversity and Geological Interest

- DM10 Development and Design
- DM17 Highways and Transportation
- DM24 - Cultural and Tourism Facilities

21. Market Bosworth Neighbourhood Plan 2014 – 2026

- Policy CE1 - Character and Environment

National Policy

National Planning Policy Framework (NPPF)

22. Paragraph 11 notes that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. 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.

23. Paragraph 84 notes planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

24. Paragraph 84 notes planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Consultations

25. **Hinckley & Bosworth Borough Council** – Raise objection to the scheme due to:

- Development of hardstanding in open countryside;
- Loss of biodiversity;

- Noise concerns .

26. **Market Bosworth Parish Council** – objects to the application:

- Lack of wildlife and habitat provision;
- Inconsistent with original landscaping scheme.

27. **Carlton Parish Council** - objects to this proposal on the grounds that:

- Area of hardstanding in open countryside is not well related to the existing Marina;
- Inconsistent with landscaping and wildlife provision.

28. **Highways Authority** – Acknowledge that due to the low level of proposed HGV movements it is unlikely that the proposed development will result in a severe impact on the existing highway network in accordance with Paragraphs 110 & 111 of the National Planning Policy Framework 2021.

29. **Leicestershire County Council Landscape** - no objection to the application and the proposals will not have an adverse landscape and visual impact on the surrounding area.

30. **Lead Local Flood Authority (Leicestershire County Council)** – no comments.

31. **Local Member – Mr. B. Harrison-Rushton CC** - has been notified of the application.

Publicity and Representations

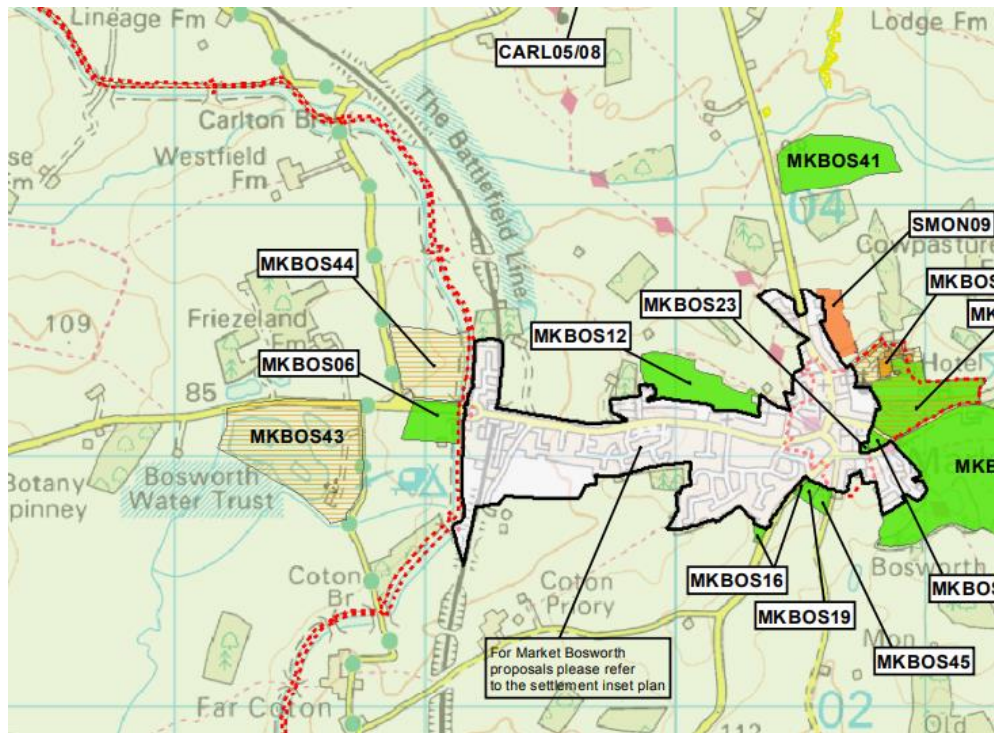
32. The application has been publicised by means of a site notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.

33. No third party representations were received in response to the consultation.

Assessment of Proposal

Planning Policy Assessment

34. The application site is located to the west of Market Bosworth and is set outside the defined settlement boundary. The site is therefore within the Countryside but is also allocated as a Cultural and Tourism Facility as designation MKBOS44 under policy DM24 of the DPD as indicated in the extract below. Tourism development is further supported under policy 23 of the Core Strategy.



35. Development on such sites may be considered acceptable in principle subject to the provisions of policy DM4 of the DPD. However, policy DM4 makes no specific reference to ancillary development on tourist sites. The closest applicable policy element of DM4 relates to sport and recreation facilities is DM4(a) which notes:

“Development in the countryside will be considered sustainable where (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries.”

36. As noted, the site is allocated for cultural and tourism development and is set on an existing, authorised, marina site. The development proposed is for an ancillary facility to provide temporary boat storage prior to boats being placed into the marina/canal waterway. As noted, the site is within the open countryside but is also adjacent (in the context to the site allocation) to the existing settlement boundary.
37. Policy DM24 of the DPD provides no commentary on ancillary facilities to established cultural and tourist sites but notes that the “Council will seek to support the development of new cultural and tourism facilities across the borough and “will seek to resist the loss or change of use of cultural and tourism facilities.” Policy 23 of the Core Strategy further supports the provision of tourism facilities but also provides no commentary on the acceptability of ancillary development on established sites.
38. When reading policies DM4(a), DM24 and 23 as a collective expression of policy intent and being mindful of paragraph 11 of the NPPF; it is apparent that there is broad policy support for the establishment and development of such facilities and this must therefore, de facto, apply to the further development within such established sites where it meets the requirements of the policy. Notably that it:
- Is of a design and at a scale which is appropriate to minimise impact and assimilate well with the character of the surrounding area with acceptable landscaping (policy 23)

- Complements the tourism themes of the borough (policy 23) and
- The Borough Council will seek to support the development of new cultural and tourism facilities across the borough (policy DM24)

39. As such, the development is therefore regarded as acceptable in principle. It cannot be located in any other location as both vehicle and waterway access are required and would otherwise have to be relocated within the marina site (where the same constraints would apply) or within the open countryside outside the allocated site which may not be regarded as acceptable and in any case would arguably be unconnected with the marina.
40. Development proposals are still required to achieve compliance with the remaining policies of the development plan and detailed criteria of those policies specified in the above paragraphs and as further detailed below.

Landscape and Visual Impact

41. The wider site comprises Bosworth Marina which provides canal boat berths for tourism moorings and short term occupation and is connected to the Ashby-de-la-Zouch Canal. The site was initially permitted in 2012 and built out in the following years. Landscaping of the site has only recently been completed following the County Council's service of a Breach of Condition Notice.
42. The Breach of Condition Notice requirements – the landscaping scheme – has recently been completed (subject to modification). The landscaping has been implemented in accordance with the approved scheme although is presently in a relatively immature state and will require a number of planting seasons to become established.
43. The landscaping includes tree planting on the western boundary with Carlton Road and hedge planting within the application site. The landscaping is expected to develop over the course of time and provide increased screening and better integration of the site into the surrounding countryside. As such, the present appearance of the site is not considered representative of the long-term appearance of the application site or wider marina. On this basis, although the hardstanding and marina are visible in short range views, mainly from Carlton Road, this will soften in time.
44. The comments of the Borough and Parish Councils are noted regarding prior non-compliances at the site and the late implementation of the landscaping scheme. This has now largely been resolved (subject to ongoing compliance) and should not be used to consider the merits of this proposal as any application should be judged on its own merits.
45. Further concerns regarding lighting and security fencing are not pertinent as the application does not include either and they may require a further planning approval where their acceptability could be considered at that time.
46. Landscaping is not proposed to be required by way of condition as this is already provided under the landscaping provisions for the wider site and Breach of Condition Notice. The proposal is not considered to override the terms of the BCN (excepting as it relates to the area of hardstanding only) and would not prejudice the continuing establishment of enhanced landscaping over the wider

site. The development is therefore considered to be in compliance with policies DM4 of the DPD and 23 of the Core Strategy.

Ecology and Biodiversity

47. Reference has also been made by both Parish Council's in regard to the biodiversity of this area of land. In practice, this part of the initially approved landscaping scheme showed a few small trees (which have already been replaced elsewhere), no hedging (which is an addition to this part of the site) and that it would otherwise be amenity of grassland with negligible ecological value.
48. The provision of hardstanding as opposed to amenity grassland over this area of land is likely to be of marginally lower ecological value. However, when viewed in the context of the wider site and with the replacement planting that has been formed outside of the hardstanding area, may well represent a small enhancement in ecological value.
49. The proposal is therefore considered to be in accordance with policy DM6 of the DPD.

Traffic, Access and Parking

50. The proposal comprises the use of a piece of presently unauthorised hardstanding and its continued operation as an area for canal boat storage. The applicant advises that this is likely to be used between one and five times per annum thus equating to a maximum of ten total (in/out) HGV movements over a year.
51. The Applicant has advised that HGVs will enter the site and then turn using the internal turning head further into the site before entering the area of hardstanding in a forward gear. Following unloading/loading the vehicle will reverse from the area of hardstanding back onto the internal road and this manoeuvre will be undertaken with Marina employees providing traffic management.
52. It has been advised that HGV movements will be booked in advance and that between 1-5 movements will occur each year. The Highway Authority notes the site is open to the public and that when HGV movements occur, particularly the reversing manoeuvre, access from the public highway may be restricted. Notwithstanding this, the Highway Authority is satisfied that the provision of traffic management operatives will enable traffic levels to be monitored so that a build up of waiting vehicles does not occur.
53. Conditions are proposed to restrict the use of the area of hardstanding to minimise its intensification of use for other purposes, including as an overflow car park or for any other purpose. These measures will ensure the development accords with policy DM17 of the DPD.

Noise

54. The Borough Council has expressed concerns regarding noise from the site. However, being mindful of the frequency of use and general activity at the wider site, which is likely to only occur when canal boats are being sited or removed from the area, this is not considered to be significant. Moreover, the times of

operation and use of the site are already proposed to be controlled by way of condition which will assist in mitigating these concerns further to comply with policy DM10 of the DPD.

Flood Risk

55. The application site is located within flood zone 1 and is therefore at the lowest probability of flooding. The LLFA have no comments to make and their standing advice on small scale developments applies.

Other Material Considerations

56. No other material considerations have been identified that warrant a different recommendation.

Conclusion

57. The application seeks permission for the retention of an area of hardstanding and its use for short term canal boat storage whilst the canal boat is being lowered into or lifted out of the water. This area of land is of a small size in the context of the marina and in conjunction with enhanced landscaping – which has already been secured through conditions 5 and 6 of planning permission 2011/0077/04 and the BCN – will ensure its visibility in the landscape and from a public vantage point will only lessen over the course of time. Conditions are imposed to ensure the development does not suffer from an intensification of use that could be detrimental to the amenity of the area. As such the application is recommended for approval subject to conditions.

Statement of Positive and Proactive Engagement

58. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

Recommendation

1. PERMIT subject to the conditions set out in Appendix A.

Officer to Contact

Nick Bowden (Tel: 0116 305 4701)
E-Mail: planningcontrol@leics.gov.uk

Conditions

1. Unless otherwise required pursuant to conditions of this permission, the development hereby permitted shall be carried out in accordance with the submitted application (as amended), documents and recommendations of reports, and the following plans:
 - a) Site location plan, undated by Andrew Large Surveyors @ 1:1,250
 - b) Site layout plan, undated by Andrew Large Surveyors @ 1:200
 - c) Planning Statement dated 14 March 2023

Reason: For the avoidance of doubt as to the development that is permitted.

2. The hardstanding hereby permitted shall be used for the purposes of boat storage only in connection with the operation of the site as a marina.

Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.

3. No individual boat shall be stored on the area of hardstanding for a period in excess of fourteen calendar days. No boats shall be stored on the area of hardstanding for any more than 70 calendar days in any year.

Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.

4. The area of hardstanding shall not be used for the parking of vehicles excepting insofar as it relates to temporary parking in connection with the movement of canal boats.

Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.

5. Notwithstanding the provisions of S55 of the Town and Country Planning Act 1990 (as amended), no mobile lighting structures shall be sited, placed or operated on the site at any time.

Reason: To ensure the development is not detrimental to the amenity of the area and to comply with policies DM4 and DM10 of the Hinckley and Bosworth Borough Council Site Allocations and Development Management Policies DPD.