

**4/01230/06/FUL - REPLACE BOAT SHED AND GARAGES WITH TWO HOUSES AND TWO FLATS, RETENTION OF PART OF SLIPWAY, PROVISION OF CANALSIDE SERVICES WITH VISITOR MOORING, FOR PUBLIC USE (AMENDED SCHEME). BRIDGEWATER BOATS LTD, BRIDGE STREET, BERKHAMSTED, HP4 2EB. APPLICANT: FOURTH AVENUE ESTATES.**

[Case Officer - Jackie Ambrose]

[Grid Ref - SP 99605 07903]

**SUMMARY**

The application is recommended for approval subject to a s.106 agreement.

**Summary of reasons to grant**

The redevelopment of this boatyard and wharf, for 5 residential units, was previously refused on failure to address the loss of wharfage and boatyard facilities; the dominance of the scheme; and the overdevelopment of this site within the Berkhamsted Conservation Area. This current, amended, application has reduced the number of units to 4 with an improved design and layout. Significantly, this scheme now provides basic canalside facilities whilst retaining a small part of the original slipway in deference to its former canal function. These changes are considered sufficient to address the previous reasons for refusal and comply with local plan Policies 11, 106 and 120.

**BACKGROUND**

**Description**

The site lies in the urban area of Berkhamsted and within the Conservation Area. Its principal frontage is on to the south bank (off-line side) of the Grand Union Canal with access via Bridge Street. It is bounded by the canal, the River Bulbourne, Bridge Court sheltered housing, a private detached dwelling and the former warehouse building associated with Castle Wharf, now a private residence. The site comprises a large timber boatyard (approx. 200 sq.m.) incorporating a slipway, dry dock, fuel pump and small office. There is an extensive open concrete yard for parking, canalside moorings and a flat roofed double detached garage (approx. 50sq.m.). The site has vehicular access via Bridge Street, a narrow residential street with on-street parking only. The site shares its vehicular access with Bridge Court. The open part of the site is concreted apart from around the large preserved Willow tree that is situated close to the canal bank. The site is clearly visible from up and down the canal with the boatyard occupying a landmark positioned midway between the two canal bridges at Castle Street and Ravens Lane.

The application site represents approximately two-thirds of the original Castle Wharf, occupied by Bridgewater Boats since the 1970s. The owners of this site subsequently split up and the site was then separated into two sites, effectively removing the former warehouse (residential) building, land and access onto Ravens Lane from the boatyard site. Bridgewater Boats continued operating as a commercial enterprise until the business was transferred to Croxley Wharf near Watford and its owner retired. The site has now been sold to a property development company, being the applicants for the previous and current scheme.

**Planning proposal**

The full application and conservation area consent application are for the demolition of the boat repairs building, the detached double garage and the filling in of approximately two-thirds of the slipway. The scheme, as amended, is for the development of the whole site for residential purposes with associated parking and provision of some canalside facilities.

The development of a total of four residential units comprising a pair of semi-detached houses (units 3 and 4 on plans) and a separate block of two flats (units 1 and 2 on plans). The houses are presented as two storeys with second floor accommodation included within the roofspace, served by four dormers and windows in the gabled roof to both front and rear elevations. They each comprise three bedrooms. Although they are attached they are asymmetrical in appearance, with unit 4 projecting forward with a front gable and narrow frontage whilst unit 3 is set back with a pitched roof and dormers, presented with a wider frontage. The ridgeline to unit 3 shares the same ridge height as the adjacent warehouse dwelling and is positioned adjacent to the eastern boundary with The Warehouse providing a varying gap of 4-6m. These units are positioned at a slight angle to the canal frontage. The flats, units 1 and 2 are positioned in a square block closest to the western side boundary of the site, and adjacent to Bridge Court. There is a gap of 3m. between these two buildings. The proposed flats are presented to appear as a detached two storey dwelling under a pitched roof, with their entrances on different elevations. Each unit comprises two bedrooms.

The flats have a cycle store, a small grassed area and two car parking spaces immediately to their front elevation and half under the canopy of the preserved Willow tree. The shared access serves all four units and The Bargeman's House, an existing detached dwelling which juts into the site, and accessed directly from the end of Bridge Street, over the River Bulbourne. Parking for the two houses is via two sets of tandem spaces with one additional space for visitor parking. A new access to Bargeman's House is to be provided together with a new 2m.high brick wall to its rear boundary onto the proposed houses. The houses are shown to have private patios and a small grassed area to the rear accessed from each side. A small landscape strip is shown on the canal frontage in front of unit 3 and the remains of the slipway are identified as an indent to the canal, large enough for the possible mooring of a canal boat. A few new trees are shown to be planted to offset those removed to make way for the parking area. There is a narrow landscape strip alongside the canal edge together with a post and rail fence in front of the existing hedgerow alongside the River Bulbourne.

In terms of the canalside facilities to be provided, the structure containing the automatic pump-out facility and water supply is to be positioned adjacent to the canal bank, at the end of the turning area serving the parking area. A visitor mooring in front of this facility is shown in detail on a recent, revised plan and is to be available for all canal boats users as part of the essential canalside facilities provided for and maintained by British Waterways, under a legal agreement with the site owner.

	<b>Standard/Guideline</b>	<b>Proposal</b>
<b>Density</b>	30 – 50 dwellings per hectare	40 dwellings per hectare
<b>Car parking</b>	7 spaces maximum	7 spaces
<b>Amenity Space</b>	11.5 metre rear garden depth	9 metres maximum

## Supporting Information

This application was accompanied by the following documents:

- Sustainability Checklist
- Supporting statement on principle of and design details for the residential scheme
- Ground Investigation Report
- Flood Risk Assessment
- Archaeological Desk-based Assessment, referring to the slipway and wharfage use
- Bat survey

## Relevant planning history

### Bridge Court

Development on adjacent site for elderly persons flats at Bridge Court, which was finally won on appeal, after previous dismissals relating to lack of amenity space and parking/turning facilities.

### Application site

- |            |  |
|------------|--|
| 4/00818/98 | Use of a portakabin for office and ancillary uses<br>Refused   |
| 4/00454/00 | Extension/conversion of garages to provide office/instruction area<br>Refused, due to detrimental effect on conservation area and insufficient on-site parking     |
| 4/00112/00 | Removal of Willow tree<br>Refused  |
| 4/02325/05 | In December 2005 a similar scheme to the current application was submitted for 5 residential units with no canalside facilities and the loss of the whole slipway. |

It was refused on the following grounds and is now the subject of an appeal to be heard by way of a Public Inquiry on 27th March 2007.

1. *Central government advice on Transport in PPG13 states that local planning authorities should seek to re-use dis-used wharves and basins, to retain boatyards and other services used in connection with water-based recreation, and to protect and enhance the waterway environment, where there are viable options. Policy 106 of the Dacorum Borough Local Plan 1991-2011 seeks to resist development proposals that would seriously affect the canalside environment.*

*The application site is the only remaining wharf within Berkhamsted. As such it makes a valuable contribution to the canalside environment and provides a valuable opportunity for enhancing canalside facilities.*

*The loss of this facility for recreation along the Grand Union Canal and resultant impact on the canalside environment would be contrary to the aims of PPG13 and Policy 106. Supporting information accompanying this application has not satisfactorily addressed these issues or objections raised by British Waterways and the Inland Waterways Association.*

2. *With regard to the details of the residential scheme itself, the three houses in particular, appear dominant and overbearing by virtue of their height, bulk, repetitive form and uncompromising fenestration and thus have a detrimental impact on the adjacent dwelling and the canalside environment. Further issues relate to the landscaping and parking in relation to the Grand Union Canal and River Bulbourne and, together with the overall design and layout of the scheme, fails to preserve or enhance the established character and appearance of this canalside environment within the Berkhamsted Conservation Area.*

*This scheme therefore is contrary to criteria and policy objectives contained within PPG15, on the Historic Environment, and Policies 11 106 and 120 of the Dacorum Borough Local Plan 1991 - 2011.*

3. *The site is insufficient in size to satisfactorily accommodate the scale and type of development proposed together with the necessary parking and amenity space. The proposals therefore represent an overdevelopment of the site and would consequently result in a poor relationship with existing buildings and the preserved tree on the site. The scheme would fail to enhance the canalside environment and would not provide a high standard of development contrary to the aims of PPS1, PPG3 and PPG15 and Policies 11, 106 and 120 of the Dacorum Borough Local Plan 1991 - 2011.*

## **Referral to Committee**

The application is referred for the consideration of the Development Control Committee due to the required unilateral agreement.

## **POLICIES**

### **National policy guidance**

PPS1, PPG3, PPG13, PPG15, PPG16 and PPG25

Circular 11/95

### **Hertfordshire Structure Plan Review 1991 - 2011**

Policies 1, 2, 38 and 39

### **Hertfordshire Structure Plan Alterations 2001-2016 Deposit Draft Version**

Policies 1, New Policy (Making development more sustainable), New Policy (Design and quality of development), 2, 38 and 39

### **Dacorum Borough Local Plan 1991 - 2011**

Policies 1, 2, 9, 10, 11, 13, 17, 18, 21, 34, 58, 83, 84, 99, 106, 107, 118 and 120  
Appendices 3 and 5

## REPRESENTATIONS

### **Berkhamsted Town Council**

#### Original Comments

Object as the proposals are contrary to Policies 83 and 98 of the Local Borough Plan.

Object to the mediocre design which is not in keeping with the Canalside area and would have an adverse affect on the visual appearance of this part of the Conservation Area.

The Borough Council should ensure that no surface water is disposed of into the River Bulbourne in order to protect this important chalk stream.

The Committee notes that the Willow tree covered by a TPO would only be protected during building works and not during demolition of the garages.

The Committee notes that a further application may be required for change of use from workshop/business premises to residential.

#### Comments on amended plans

No objection. DBC should ensure that no surface water is disposed of into the River Bulbourne in order to protect this important chalk stream.

This Council notes that a further application may be required for change of use from workshop/business premises to residential.

It questions the suitability of an unsupervised pump-out facility in a residential area.

NB: An application for the change of use of the workshops is not required.

### **Conservation and Design**

Detailed comments on the design of the units were taken on board by the architect and were satisfactorily addressed in the amended plans.

Demolition for any of these structures should not be permitted until a satisfactory full planning application for the redevelopment of this area has been approved.

The boat shed is not worthy of a listing but it does have simplicity in its form that represents its previous use, its low key form and materials used settle quietly in this prominent and important location that has strong and important views within the conservation area.

I do not have any objections to this building being demolished but the redevelopment proposed is discussed below.

The slip way - This scheme now shows a "notional" amount of slipway retained and it is unfortunate that more slipway is not retained but this does "just" address the concern over the uniformity of the canal boundaries but it is a disappointing the proposed boundary is parallel and does not follow the form of the existing slip way albeit reduced in depth.

The suggested amendments to the elevations of all units have now been incorporated into the recent amendments and thus satisfactorily address my concerns.

### **Environmental Health**

Due to contamination issues further investigation is required. With regard to the Pump-out Station written documentation should be provided from the developers stating who will be responsible for its long-term maintenance.

### **Trees and Woodlands**

Since submission of this application an application was submitted for pruning the preserved willow tree for up to 20% (Ref: 4/1771/06/TPO). It was considered that due to previous pruning that this current pruning would benefit the tree's long term health. As a consequence the pruning has been approved, but limited to no more than 20%. This has been reflective in the amended plans. These plans have also addressed the previous issues of impact of the tree upon the windows serving habitable rooms within the two flats.

### **Hertfordshire County Council (Archaeology)**

No comments to make at this time.

### **(Transportation Planning and Policy)**

The application is for the demolition of the existing boat shed and garages and the construction of two three-bed houses and two two bed flats. This application is an amended scheme for an earlier one that was refused. The site is accessed from Bridge Street which is a narrow cul-de sac. Bridge Street is heavily parked along one side of the carriageway, leaving just sufficient width for a vehicle to pass. Any development of the Bridgewater boat site should include sufficient parking so there is no impact on Bridge Street. The proposal provides 5 parking spaces, which is only just over 1 per unit. I consider that this may be an under provision but I realise that the previous application for the site only provided 7 spaces for 5 units. At that time the Highway Authority did not object to this level of parking which would make it difficult for the Highway Authority to now raise concerns about the level of parking and the impact on the surrounding highway network. I note, however, that the applicant states that the slipway is to be retained for private moorings and provision of canalside services. No details of this are provided but I would have objections if it resulted in any vehicular movements to the site.

The applicant should provide details of refuse collection areas as units 3 and 4 are beyond 25m (the acceptable carry distance) from the end of Bridge Street.

It is noted that there is no turning space for service vehicle to these units and vehicles will have to either turn in the private access to Bridge Court or reverse the full length of Bridge Street. However this issue was not commented on by the Highway Authority for the previous application and therefore I understand that it could be difficult to raise this as an objection now. The parking layout for the 5 spaces provides sufficient manoeuvring space for vehicles using these spaces to enter and leave in a forward gear.

As the concerns I have raised were not raised for the earlier scheme which was for 5 units as opposed to 4, I understand that it would be difficult to object to the redevelopment of this site on highways grounds, I therefore have no objection to the grant of permission subject to the inclusion of conditions.

### **Inland Waterways Association**

We are pleased to note that a pump-out facility has been added to this proposal

### **Inland Shipping**

This is an ideal location for on-line canalside facilities despite those already existing at Cow Roast and Winkwell. This would reassert the valuable historic, functional linkage of the town and canal. What is now to be provided is the absolute minimum that could be considered. There is regret over the loss of the slipway. However, ideally this site should be preserved and become the home for a more widely based heritage, museum, educational, tourist centre and community facility.

### **British Waterways**

Please be advised that British Waterways has no objection in principle to the proposed development subject to the following matters being adequately addressed:-

Loss of Boatyard Issues. British Waterways regrets the loss of the boatyard facility at this site. Our national policy states that we are opposed to the loss of any canal services though development. However, British Waterways' opposition to loss of wharves and infrastructure is specifically related to historical sites and those identified as strategic. This site is not classified as an historical boatyard and is not listed; additionally the slipway is a fairly recent addition to the facilities on the site and the actual use as boatyard has been limited.

British Waterways is not able to enforce operations of private boatyard facilities at this site. Although we have encouraged other third parties to take an interest providing some basic operational facilities at the site; to date this has not come to any fruition. This is in the context of other local canal services in the Berkhamsted area that have increased and broadened in range of services in recent months becoming more commercially competitive than the Castle Wharf site can sustain.

In our recent discussions with the Council in respect of the concern for loss of canal linkages at the site, it has been agreed that some key 'waterway elements' of the site should remain to provide some sustained character to the site and surroundings, and that there is a compromise to be reached if the applicant includes some design

measures and includes possible service features for the canal. The applicant has moved to meet our concerns and incorporated some of our concerns within the proposals.

Design/layout. We are pleased that the principle of the widened area of waterway will remain although we would encourage the footprint of the widened waterway to remain. The reduction in density of the site from previous applications is supported as is the proposed overall building layout of the site. The design of the buildings could more closely reflect canal architecture than present considering the link of the site to the waterway environment and we would encourage the applicant to take another look at the design of the buildings.

We are concerned that other agencies have exerted pressure for soft embankments at the site. The prevailing hard edge wharf style of embankment should be used at this site and landscaping immediate to the waterside should be limited and native species used that have limited lateral root systems in order to protect the embankment structure.

Car parking adjacent to the waterway is a problematic issue for British Waterways on all development sites and we encourage all developers to hide 'car spaces' away from the waterside environment. We have some concern that the three proposed parking spaces and turning area presents a safety risk for both future residents and canal users. Design features such as decorative steel bollards should be incorporated to provide an effective barrier from cars entering the watercourse.

Engineering Matters. Construction works in close proximity to the canal present several concerns for British Waterways:-

- Excavations 7.5 meters deep within 5 meters of the canal require close consultation with BW, all details of excavation for construction works must be supplied before the commencement of works.
- Details of methods of site demolition and construction must be provided to British Waterways in order to protect canal navigation.
- No heavy plant should be stored on the canal embankment within 5 metres of the canal.
- Full consultation with British Waterways will be required regarding design and construction of the new waterway wall, and the proposed works and method must be in full accordance with the *Code of Engineering Practice for works affecting inland waterways*.

Other Matters. In addition to planning consent, the applicant must seek several approvals from British Waterways as soon as possible.

### **Environment Agency**

Object on two points:

- need to provide a 2m. continuous buffer zone alongside both the canal and the River Bulbourne, along the full length of the site. This is considerably less than what is normally required and thus represents a compromise due to the very limited space

within the site and takes account of the width of the landscape area between the building at Unit 4 and both watercourses.

- a barrier along the length of the site between the buffer zone and the site shall be of open construction rather than a solid wall to allow the unrestricted movement of birds and insects here.

If these requirements are not met the Environment Agency would want to be contacted in order to agree conditions that could be attached to any consent.

NB: The previous solid wall has now been replaced with a open, post and rail fence.

### **Herts & Middx Wildlife Trust**

Recommends any buildings for removal are examined by a licensed ecologist.

NB: A bat survey has since been carried out.

### **C.A.R.A.B.**

Objection remains despite improvements to elevation details, but scheme is still not of sufficient architectural merit for such a prominent site.

Units 3 and 4 will be too high when viewed against Bridge Street.

Despite accepted pollarding to Willow tree, there is still concern over its roots.

Strongly urge Members to visit site prior to Committee Meeting.

### **Local History & Museum Society**

Object for reasons relating to the loss of the wharf.

### **Berkhamsted Citizens Association**

An improvement on the previous scheme but should have the highest quality of design and materials.

### **Local Residents**

A campaign to save this historic wharf has been led by Lindy Foster-Weinreb who occupies the adjoining site at The Warehouse. She has produced a wealth of material both concerning the historic facts about this site within the local context, as well as government papers regarding the national concern for protecting the canal and its associated uses for its future livelihood. Her drive and absolute passion for seeing a canal-related use being established on this site, for the benefit of the whole of the Berkhamsted community, is quite clear. Unfortunately, this documentation cannot be reproduced within this report but it can be viewed on the planning file. It will also be used by her as a third party objector at the Public Inquiry in March.

In addition, 25 letters have been received from local residents and a further 25 from other canal users/interested parties all objecting to the application. 70 letters were received objecting to the previous scheme. These objections relate to the loss of this historic canal heritage and to the details of the proposal itself and have thus been divided into these categories.

#### Loss of canal heritage

- to build up and enhance the historic association of Berkhamsted with the canal is of a greater cultural significance to future generations than infill housing in an overpopulated town
- proposal constitutes over-development of site and is indicative of how the very character of the town is being submerged beneath the overkill of more zealous housing developers
- a more thoughtful and pragmatic use of site, for the benefit of the town and community should be sought instead
- contrary to burgeoning movement to restore canal heritage
- contrary to PPG13 guidelines
- it is the last remaining wharf - strong, emotive meaning to community - should look at using it for short-term hire of commercial boats
- should use site for a canal museum or workshop
- this is the last link with commercial heritage of area
- does not serve the community
- retention of part of the slipway is just a sop and is therefore meaningless
- this will send a very negative signal towards British Waterways restoration programme and may jeopardise future funding/investment that is urgently required for Berkhamsted canal system. This is backed up by the Dunwoody House of Commons Report on Inland Waterways. March 2001 and the Freight Study Group, established and reported on in June 2002. These documents lead to the repair of all listed buildings and restoration of canal infrastructure

#### Objections to details of residential scheme

- Bridge Street is very quiet, very congested and very narrow and cannot take any more development
- buildings in terms of shape and size do not integrate well into the surroundings
- very little evidence of real energy saving
- despite amendments 7 spaces still provide insufficient parking to serve site
- no details of how to minimise construction disruption to residents both to Bridge Street and Bridge Court residents.
- dust and fumes with aggravate asthmatic elderly residents of Bridge Court.
- query on weight limit of bridge over River Bulbourne for construction traffic
- too much development elsewhere in town with further pressure on public facilities
- increased traffic will be unwelcome down Bridge street
- entrance to Bridge Court is often (and illegally) used for turning therefore will need to provide turning area within scheme
- design and layout looks fragmented and is of little architectural merit
- there will be loss of privacy to some Bridge Court residents
- not in keeping with canalside location

- the parking area impairs canal landscape which has carefully been avoided on other redeveloped canalside sites
- three storey development is too high for this site and constitutes overdevelopment of site
- the stepping of the units is out of keeping with canal location
- overlooking to Bridge Street properties from rear windows and balconies
- concern over foundations and its effect on other houses
- loss of views of canal from some Bridge Court units
- loss of light from front doors of Bridge Court units
- houses will have a negative impact on The Warehouse
- a poor previous canalside development should not set the benchmark for the quality of this development
- loss of privacy to rear gardens and habitable rooms to properties on opposite side of canal in Station Road, including overshadowing of canal and loss of views to town centre beyond
- light pollution from new dwellings
- query over the correct buffer zone against River Bulbourne
- no reference made to substantial Ash Tree to rear of site
- would be helpful for committee members to visit site

### 3 letters received in support of the scheme

- development is relatively small-scale
- will remove fear of vandalism of current, dis-used building
- sympathetic design
- development will generate far less traffic relative to a commercial boatyard
- will replace unattractive building with in-character housing
- will ensure Willow tree is preserved

### CONSIDERATIONS

The consideration of this application falls into two distinct parts. Firstly, whether the principle of the loss of boatyard facilities and the change of use to residential use is acceptable, and secondly, whether the details of the residential scheme itself are acceptable.

#### **Loss of boating facilities and change to residential use**

This site has operated as a boatyard, or has had some form of close working relationship with the Grand Union Canal, since 1799 and now is the last remaining boatyard in Berkhamsted. Due to the fact that all other boatyards and sites in Berkhamsted associated with the canal have now disappeared (mainly through redevelopment for residential purposes) it is therefore very important that careful consideration is given to the loss of this last boatyard and associated facilities. This was a fundamental issue raised with the previous application and the principal reason for its refusal.

As with the previous application, this current application has resulted in a considerable amount of written opposition to the loss of this boatyard, from a number of boating institutions, but particularly from the adjacent site owner who formerly shared the running

of the Bridgewater Boats company and who is herself a considerable authority on the issue of preserving canal heritage nationally and within Berkhamsted.

Following the closure of the Bridgewater Boats enterprise there was no apparent opportunity for open or community-based discussions on the future of this last remaining wharf due to the sale of the site to a residential property developer. Given the past history of the site and its recent planning history it was unfortunate that the developer, or agent, did not seek pre-application advice from this planning authority.

The previous application did not address the potential of this site regarding its canal heritage, and produced no evidence that this site could or should be used for any other purpose than for residential use. Hence the previous main reason for refusal.

However, that application was refused in December 2005 and had by that time generated an enormous amount of written objection, and high profile interest in the possible loss of these canal based uses. The intervening twelve months has provided ample time an opportunity for any interested parties to come forward with either schemes to promote the canal heritage of this site or to offer to purchase the site or develop it in liaison with the owning company. No such schemes or approaches have materialised apart from Lindy Foster-Weinreb's pursuit of a community use funded through partial lottery funds. This is ongoing and is being actively pursued although this is conceded to be a long-term venture.

However, this local planning authority has a duty to determine this application as quickly as possible and particularly in light of the appeal inquiry scheduled for 27 March 2007.

As a consequence of the previous refusal this current scheme, as amended, has addressed this main issue in the following three ways.

Firstly, it has allowed at least nine months for any interested parties to come forward with an alternative scheme regarding its historic use. This matter has been addressed in the immediate preceding paragraphs.

Secondly, the agent has provided a more detailed analysis of the potential use of this site and argued in their supporting statement the reasoning behind their scheme. Their conclusions are stated as follows:

"In conclusion, if any new boat related business were to purchase the site, it would have the restrictions of a poor access and very limited off-street parking. It would also have to fund the cost of rebuilding the existing workshop, which would be beyond the scope of most small businesses. The site is also constrained by the surrounding residential development. Together with the restrictions in the use of the slipway due to the British Waterways licence, there is unlikely to be any viable boat related business that could be resurrected on this site".

Thirdly, through negotiations with the planning authority and British Waterways, the applicant and agent have now amended the scheme to provide for essential, basic canal side facilities in the form of a pump-out station, water supply and fuel supply alongside the canal bank.

## **Policy and principle**

With regard to the principle of a change of use from commercial to residential, this site lies within the designated residential area of Berkhamsted where, under Policy 9, a change of use to residential is acceptable.

However, central government advice in PPG13 requires that local authorities should work with British Waterways, private operators and the voluntary sector to help develop the potential of inland waterways. This is to be achieved by "seeking to re-use dis-used wharves and basins, to retain boatyards and other services used in connection with water-based recreation, and to protect and enhance the waterway environment, where these are viable options".

This advice is echoed through Policy 106 in terms of promoting the retention of original canalside buildings and structures, including pump houses. Furthermore encouragement is given to proposals to improve, amongst others, small scale facilities appropriate to the canal consistent with other local plan policies.

In terms of this policy, the boatyard building itself, due to its utilitarian design and timber construction is not considered worthy of retention. Whilst it has for a long time served its purpose as a boatyard and is a prominent feature along the canal, its rather unprepossessing appearance as a redundant building would make its retention difficult to justify. This approach has been confirmed by English Heritage, who previously declined a request to list the slipway due to its absence of special architectural or historic interest. Furthermore its relatively poor condition, made worse by a recent arson attack, will not effectively allow for its economic refurbishment for other uses. From the majority of letters received regarding this application, only a very few promoted its retention. The other building on site, a detached garage, is a modern brick construction with no merit or justification for retention.

In terms of the slipway that was constructed in the late 1970s in order to give access to the boatyard from boats, this was shown to be entirely infilled in the previous application. Its loss was again cause for concern as an historic feature of this site. Therefore, in deference to its previous use the current application has shown part retention of this slipway, as an inlet immediately adjacent to the dwellings. This could provide a private mooring in the future if permitted by British Waterways.

Policy 34 allows for the re-use of existing commercial premises within residential areas providing the new employment-generating use does not cause any environmental problems. In this particular case, the loss of an employment-generating use is not considered to be the main issue; rather it is the particular loss of the canal-based use that is of concern. This has now been adequately addressed in the supporting statement submitted with the application.

Therefore, in light of the above central government advice and relevant local plan policies, the most significant change here from the previous refusal is the agreement by the applicants to provide basic canalside facilities on their site. Simply put, these proposed canalside facilities will allow for the increasing number of private canal boat users, (mainly for leisure purposes), to replenish their water supplies, take on fuel and pump-out their toilets quickly and easily whilst moored up alongside the canal bank.

British Waterways are concerned that the increase in private leisure boats using the canal system is not being matched with the provision of basic canalside facilities. Although there are facilities at Cow Roast, Winkwell and Apsley Lock, there is a need to increase particularly the pump-out facility. It is therefore because of the agreement with the applicants to now provide these facilities (through a s.106 agreement), that they have now withdrawn their objection to this application.

This is a very important factor in the consideration of this application. It should be noted that with the absence of these facilities in the previous application, British Waterways will still be objecting at the appeal inquiry.

To conclude, this amended scheme now satisfies the requirements of both the local plan policies and British Waterways and its redevelopment for residential use can be supported.

### **Details of residential scheme**

This site lies within the Berkhamsted Conservation Area and occupies a prominent frontage along the canal. As such Policy 120 requires that any new development should preserve or enhance the character of the conservation area. Indeed, issues regarding design and layout of the previous scheme constituted the second reason for refusal.

This application has responded to those reasons and has addressed this issue through the reduction of units from five to four. This has been through the loss of a dwelling. Importantly, the current scheme, instead of having a terrace of three houses, has reduced this to semi-detached pair, which, due to their design and form, appear as one larger detached unit. Their design has also reduced their ridge height in part and relates satisfactorily with that of the adjacent dwelling: The Warehouse. They are set further away from The Warehouse and further back on the site than the existing boatyard building.

However, in response to the current application, the Conservation and Design Team raised a number of suggested improvements to the elevations, as detailed in the consultation section above. The architect took on board all the comments raised and amended the drawings accordingly. Therefore in terms of their appearance it is considered that this amended scheme now meets the aims and objectives of Policy 120, both in terms of its effect on the character of the conservation area and on its appearance alongside the canal, and can therefore be supported.

Whilst many comments received related to the design of this development alongside the canal, the many developed canalside sites within Berkhamsted offer a variety of designs and layouts. Some of these are more interesting and offer more canal-related details than others. In the end the particular style or form of residential development can be subjective and it is doubtful as to whether a consensus on design could ever be achieved.

Concerns have also been raised from local residents regarding its appearance as viewed from adjacent sites, at Bridge Court, The Bargeman's House, and properties along Bridge Street and the backs of properties in Station Road, across the canal. It is observed that, due to its height, it will be more prominent in the area than the existing boatyard building. However, its overall height is similar to the adjacent Warehouse

residence, which was a former warehouse building and thus appropriate in height and scale to the canal. The character of the houses in Bridge Street is that of small terraced houses immediately abutting the pavement. Their character comes from a different era and could not be replicated on this site. The proposed houses are designed to utilise their roof space as habitable accommodation. The relationship of the proposed houses with The Bargeman's House will change, but the benefits brought to the parking and boundary treatment of this house and the change of use from commercial activity to private residential use outweighs its increase in visual impact. Concerns from Bridge Court are dealt with below.

The third reason for refusal of the previous scheme related to the overdevelopment of the site. This current scheme has addressed this through the reduction of units from five to four. As a result the houses have more private amenity land and the number of parking spaces per dwelling has increased to comply with our parking standards. Both houses are provided with two spaces, as tandem spaces, whilst each flat has one space. The seventh space acts as a visitor's space. This issue of parking has been high on the list of objections, being of particular concern due to the clear lack of any areas for overspill parking. The residents of Bridge Street are very conscious of this matter, because they have difficulty parking within their own street due to the lack of off-street parking. Similarly, Bridge Court is also served from this site and their spaces are limited. (The application for that development was refused by this Council on parking grounds, but was allowed on appeal). Nevertheless, given the proximity of the site to the town centre and station the parking provision is considered acceptable. What is also important to note is the comparison with the site when used by Bridgewater Boats where their trade latterly centred on hiring boats, and thus parking, access and turning within the site were always difficult. The proposed residential use of this site offers a clear improvement to this situation.

As such, this current scheme, with seven spaces serving four units, two areas for cycle storage and with some private land associated with the houses, is not considered to constitute overdevelopment of the site.

## **Other Considerations**

### Pump-out Station

Very few comments been made regarding the provision or location of the pump-out station on the canal bank which may be due to objectors focusing on the residential details. However, as part of any consent, agreement would be required to allocate payments for its regular maintenance. This is imperative due to the nature of the facility. Whilst it is recognised that this pump-out station is of the latest design and would be linked directly into the sewerage system on site, it would still require regular maintenance for the sake of adjoining residents.

### Impact on neighbours

The two storey block of flats is to be positioned farther back into the site than the double detached garage that it will replace. Although the height of the building will be higher than the garages, it will open up views across the canal hitherto blocked by the garages. The pollarding of the Willow tree will also improve light and aspect to some extent. The

building will be set between 1 and 2m. away from the boundary, and thus averaging 3m. away from the side elevation of the nearest part of Bridge Court. It is acknowledged that it will be closer to the front entrance doors to this block. With the intervening boundary there will be no overlooking between habitable windows of Bridge Court and the proposed flats.

In terms of Unit 4 adjacent to The Warehouse, there are no windows on this elevation facing The Warehouse and the ridge heights of both buildings are similar. The angle of the building, together with its reduced overall depth and the small dormers in Unit 4 will help to minimise the visual impact of its built form upon The Warehouse, although it is recognised that it is higher than the existing boatyard.

In terms of rear elevations in properties in Bridge Street closest to the proposed Unit 3, these are set at right angles and thus there will be no direct overlooking from the habitable windows in the rear elevations of Unit 3. Parts of the The Bargeman's House also juts out into their line of vision.

In terms of The Bargeman's House, there are no habitable room windows overlooking the house at first or second floor level, with the intervening brick wall at ground floor level.

In terms of the rear elevations and rear gardens to properties facing onto the site from across the canal, in Station Road, it is considered that any additional overlooking will not be unduly harmful, with direct views across the canal already afforded from the existing properties at Bridge Court, The Bargeman's House and The Warehouse. Furthermore, residential use of this site will be less intrusive than the commercial activities that have hitherto occurred on this site. Any loss of view across to the town beyond is not a material planning consideration.

### Landscaping

Landscaping details have been shown on the plans, indicating the planting of native cultivars alongside the canal bank, with new trees to be planted to offset those to be removed, adjacent to The Bargeman's House. A new boundary wall is also to be built around this property. Details of types of hard surfacing would need to be provided by way of condition. Two cycle stores are shown to be positioned close to the flats. Details of bins stores would need to be provided by way of condition. The canal inlet is shown unhindered but with demarcation posts alongside the canal bank. Finally, a 1.2m. high post and rail fence is shown to be positioned immediately alongside the boundary with the River Bulbourne.

A larger scale plan of the safety details around the pump-out station is to be provided before for the Committee meeting.

### Environment Agency

The Environment Agency have objected to the scheme, although both points could be overcome. Please see Consultee comments above.

### Willow tree

The preserved Willow tree on the canal bank has since been the subject of a TPO application for its pruning, under Ref: 4/1771/06/TPO. A 20% pollarding of the tree has been accepted by the Trees and Woodlands Manager (see her comments in the consultation section above), which will be beneficial to the health of the tree, particularly since it has been pollarded in the past. Concern was also raised as to the impact its branches would have on the occupiers of the two flats. These concerns have been taken into account by the architect who has amended the internal layout of the habitable rooms in order to improve aspect from their windows. The importance of retaining this tree has been recognised.

### Construction on site

Due to the confined access to the site via Bridge Street, it would be necessary for the developers to liaise with local residents of Bridge Street and Bridge Court to agree the management of construction traffic and protection of all local residents from effects of dust and fumes. There would also need to be an assessment of the load capacity of the bridge over the river at the entrance to the site to ensure its safety.

### Conservation Area Consent

There is a current CAC application under Ref: 4/01229/06/CAC, for the demolition of the boat shed and garages. In order to protect the site it is necessary to delay determination of this application to coincide with the determination of the current application.

### **Conclusion**

This amended scheme now satisfies the requirements of all relevant local plan policies and British Waterways regarding its redevelopment for residential use. The amended scheme in terms of its design and layout also accords with policy objectives with regard to its appearance within the canal setting and the Berkhamsted Conservation Area. Finally, the reduction in units no longer signifies overdevelopment of the site, with parking standards being met and without being harmful on amenities of neighbouring properties.

### RECOMMENDATIONS:

1. That determination of the application be DELEGATED to the Development Control Manager with a view to approval, subject to completion of an obligation under s. 106 of the Town and Country Planning Act 1990 that is acceptable to the local planning authority:
2. That the following Heads of Terms for the unilateral undertaking, or such other terms as the Committee may determine, be agreed:
  - The developer is responsible for the work and cost involved in preparing the canal bank and installing the pump-out facility.
  - British Waterways hereafter maintains the pump-out facility.
  - The developer provides commuted sums to British Waterways to cover the costs of regular maintenance of the pump-out facility for the first 5 years

### **Provisional conditions**

Please note that these conditions may need to be amended or added to subject to the receipt of additional information from the applicant and/or further comments from any Statutory Consultee.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
3. No development shall take place until full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:
  - hard surfacing materials;
  - soft landscape works which shall include planting plans; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
  - trees to be retained and measures for their protection during construction works;
  - proposed finished levels or contours; and
  - exterior lighting.

The approved landscape works shall be carried out prior to the first occupation of any part of the development hereby permitted.

4. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.
5. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.
6. No development shall take place until details of facilities for the storage of refuse shall have been submitted to and approved in writing by the local planning authority. The approved facilities shall then be provided before the development is first brought into use and they shall thereafter be permanently retained unless otherwise agreed in writing with the local planning authority.
7. Prior to commencement of the development hereby permitted details of facilities for washing the wheels of construction vehicles leaving the site shall be submitted to

and approved in writing by the local planning authority. Wheel washing facilities shall then be provided in accordance with the approved details prior to the commencement of construction works and shall thereafter be maintained and operated for the duration of construction works.

8. All storage areas and facilities for on-site parking for the use of all contractors, sub-contractors and delivery vehicles engaged on or having business on the site associated with the construction of the development hereby permitted, including the access works, shall be provided for the duration of the development on land which is not a public highway and which is not in an area required for tree protection and the use of such areas must not interfere with the use of the public highway or any trees.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) (with or without modification) no development falling within the following Classes of the Order shall be carried out without the prior written approval of the local planning authority:

Schedule 2 Part 1 Classes A, B, C, D, E and F  
Part 2 Classes A, B and C.

10. The development hereby permitted shall not be occupied until the arrangements for cycle storage, vehicle parking and circulation shown on Drawing No. 1388/08B shall have been provided, and they shall not be used thereafter otherwise than for the purposes approved.
11. Prior to the commencement of the development hereby permitted details of a surface and foul water drainage system shall be submitted to and approved in writing by the local planning authority. The surface water drainage system shall be a sustainable drainage system and shall provide for the appropriate interception of surface water runoff so that it does not discharge into the highway or foul water system. The development shall be carried out and thereafter retained fully in accordance with the approved details.
12. No development or other site works shall take place until details of the method and timescale of the filling in of the existing slipway have been submitted to and approved in writing by the local planning authority. These works shall be carried out fully in accordance with the approved details.
13. Prior to the commencement of the development hereby permitted a Phase I Report to assess the actual or potential contamination at the site shall be submitted to and approved in writing by the local planning authority. If actual or potential contamination and/or ground gas risks are identified further investigation shall be carried out and a Phase II report shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. If the Phase II report establishes that remediation or protection measures are necessary a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority.

For the purposes of this condition:

A Phase I Report consists of a desk study, site walkover, conceptual model and a basic hazard assessment. The desk study comprises a search of available information and historical maps which can be used to identify the likelihood of contamination. A simple walkover survey of the site is conducted to identify pollution linkages not obvious from desk studies. Using the information gathered, a "conceptual model" of the site is constructed and a basic hazard assessment is carried out.

A Phase II Report consists of an intrusive site investigation and risk assessment. The report shall make recommendations for further investigation and assessment where required.

A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.

14. All remediation or protection measures identified in the Remediation Statement referred to in the above condition shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development hereby permitted.

For the purposes of this condition a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.

15. All structures on site shall be demolished prior to the implementation of the development hereby permitted. The materials arising from demolition shall either be re-used in the construction of the development permitted or shall be removed from the site within 56 days of the date of occupation of any part of the development.
16. No development or other site works shall take place until details of any excavations more than 7.5 meters deep shall have been submitted to and approved in writing by the local planning authority.
17. No development or other site works shall take place until a scheme for site demolition and construction has been submitted to and approved in writing by the local planning authority.
18. No heavy plant, as assessed by a British Waterways engineer, shall be stored on the canal embankment within 5 metres of the canal.
19. Notwithstanding any details submitted as part of the planning application, prior to the commencement of the development hereby permitted, plans and details showing how the development will provide for renewable energy and conservation measures, and sustainable drainage and water conservation shall be submitted to and approved in writing by the local planning authority. The approved measures shall be provided before any part of the development is first brought into use and they shall thereafter be permanently retained.

20. No development or other site works shall take place until a scheme for the design and construction of the new waterway wall has been submitted to and approved in writing by the local planning authority.. The proposed works and method must be in full accordance with the *Code of Engineering Practice for works affecting inland waterways*. The development shall be carried out in accordance with the approved details.

INFORMATIVES:

The applicant is advised that:

1. The Council's Environmental Health Unit should be consulted relating to hours of working and methods of construction. Please refer to the advice note which can be found at the following web address: <http://www.dacorum.gov.uk/EnvHealth/BuildingAndDemolitions.pdf>
2. Where British Waterways' property is used (over-sailing or otherwise) during the period of construction, consent must be sought before development is commenced from British Waterways South East in Milton Keynes.
3. The proposal is subject to the *Code of Practice for Works affecting Inland Waterways* (BW, revised 2004). This document is available for download at [www.britishwaterways.co.uk](http://www.britishwaterways.co.uk).
4. Any proposed discharge of surface water into the canal requires an agreement with British Waterways. Existing discharge agreements are always extinguished by any proposed change of use. If surface water discharge is proposed as part of the development, an agreement must be sought from British Waterways South East in Milton Keynes.
5. Proposals for moorings must be approved by British Waterways.
6. Pedestrian and vehicular access rights shall be retained and maintained for residents of Bridge Court and Bargeman's House as shown on drawing No. 1388/08B.
7. The applicant is advised that Phase I and Phase II reports relating to site contamination should be carried out by or under the direction of a suitably qualified person.

These reports should comply with BS 10175 which clearly sets out how a site investigation and risk assessment should be carried out.

Contaminated Land Planning Guidance can be obtained from Environmental Health or via the Council's website:

[www.dacorum.gov.uk/dbcweb/pdf/PC003.pdf](http://www.dacorum.gov.uk/dbcweb/pdf/PC003.pdf)