



Appeal Decision

Inquiry held on 25 - 28 January & 9 February 2011

Site visit made on 8 February 2011

by Claire Sherratt DipURP MRTPI

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

Decision date: 19 May 2011

Appeal Ref: APP/Q4625/A/10/2126516

Land off Jacobean Lane, Knowle, West Midlands B93 9LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Grand Union Marine and Leisure Services Ltd (GUMALS) against the decision of Solihull Metropolitan Borough Council.
 - The application Ref 2009/1028, dated 26 June 2009, was refused by notice dated 21 December 2009.
 - The development proposed is construction of 140 berth off-line mooring facility with new vehicular access, car parking, earth sheltered amenity building and comprehensive landscaping.
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Procedural Matters

1. In determining this appeal and arriving at my decision, I have taken into account the Environmental Statement (ES)¹ and other environmental information produced, in accordance with section 3 (2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. This includes an ES produced in accord with the relevant Regulations, comments from statutory consultation bodies and the additional information requested by the Planning Inspectorate by virtue of Regulation 4 (2)(a) in relation to impacts on air quality.
2. The Council was unable to provide me with copies of letters of representation that were received in response to the planning application as they had been mislaid following the determination of the application. The report to Committee confirms that:

28 letters of holding objections were initially received to the application plus 6 from the same address. Subsequently, 93 letters of objection have been received to the proposal, including objection from Caroline Spelman MP, plus 15 from the same address and two petitions against the proposal, containing 8 and 327 signatures respectively.

3. The Committee Report provides a summary of those objections raised in the letters received by the Council. Furthermore, the Council, when notifying interested parties of the appeal, informed those parties that copies of the original letters of representation had not been forwarded to the Planning Inspectorate. A considerable number of letters were received in response to the appeal notification. In addition, many supplied a copy of their original

¹ The ES is a document setting out the developer's own assessment of the project's likely environmental effects which was prepared and submitted with the application for consent.

letter of objection submitted at the time of the application. I am therefore aware of the nature of the concerns raised.

4. Furthermore, at the inquiry I read out the summary of the objections received by the Council, from the Committee report, to ensure that those interested parties present were satisfied that their original concerns were reflected in either that summary or within subsequent letters sent in response to the appeal. I am satisfied that I am able to consider the concerns raised and that no prejudice is caused to interested parties.
5. On 7 February 2011 the High Court dismissed a judicial review challenge by Cala Homes to the effect that the Secretary of State's statement of 10 November 2010 and the letter of the Chief Planner of the same date, referring to the proposed revocation of Regional Strategies were immaterial to the determination of planning applications and appeals before the formal revocation of Regional Strategies. The judgement confirms that the intended scrapping of Regional Strategies is capable of being a material consideration in planning decisions. The weight to be given to the proposed abolition is a matter for the decision maker and the main parties were invited to make submissions accordingly. Cala Homes have since been given permission to appeal the High Court decision.
6. In this case, the Regional Spatial Strategy (RSS) comprises Regional Planning Guidance for the West Midlands (RPG11). All relevant development plan policies are set out in the Statement of Common Ground (SOCG)². Both parties agreed at the inquiry that the policies contained in RPG11 have little practical bearing on the determination of this appeal and so the intention to revoke Regional Strategies is of little consequence in relation to the policies applicable to this appeal.

Decision

7. I dismiss the appeal.

Main Issues

8. Since the application was determined, the Environment Agency withdrew its initial objection to the proposal. Consequently, the local planning authority resolved not to pursue the reason for refusal relating to the risk of flooding presented by the development. The site is situated within the West Midlands Green Belt. The remaining main issues are:
 - (a) whether the proposed development would constitute inappropriate development in the Green Belt;
 - (b) the effect upon the openness & visual amenity of the Green Belt and the purposes of including land within it;
 - (c) the effect of the development on the setting of Grove Farm, a Grade II Listed Building and its curtilage listed buildings;
 - (d) If I conclude that the development is inappropriate development in the Green Belt, whether other material considerations exist weighing in favour of the development that would clearly outweigh the harm by reason of inappropriateness and any other harm such that very special circumstances exist.

² Document 1.

Reasons

9. The appeal site is situated on gently sloping land to the north and east of Grove Farm, a Grade II listed building. The Grand Union Canal is contiguous with the eastern boundary of the site. A public footpath extends eastwards across the site, from Jacobean Lane, past Grove Farm towards Henwood Hall Farm crossing the canal via a footbridge.
10. The development would comprise a 140 berth mooring facility on land adjacent to the Grand Union Canal. The lagoon area, some 232m x 75m, would be situated parallel to the canal, south west of the existing canal footbridge which leads from Grove Farm together with associated parking. Excavated earth would be re-distributed to areas north and west of the proposed basin. A new single track access road with passing places, some 300m long, is proposed off Jacobean Lane, which would traverse the northern part of the site between Grove Farm and the canal. An amenity building, some 23m x 4.2m with a flat roof is proposed adjacent to the lagoon. One of the moorings would be dedicated to a permanent residential use on a canal barge for occupation by a site manager. It is intended that the moorings will provide long term berths for private boat owners.

Inappropriate development

11. I turn first to consider whether the proposed development would constitute inappropriate development in the Green Belt or not. Planning Policy Guidance Note 2 'Green Belts' sets out the Government's policies in relation to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness³. There is a presumption against inappropriate development in the Green Belt. Policy C2 of the Solihull Unitary Development Plan (UDP) broadly reflects national guidance⁴.
12. PPG2 sets out those developments that will not be inappropriate development in the Green Belt. The proposal relates to the material change of use of land from agriculture to a mooring facility. Substantial engineering operations are necessary to facilitate the development together with associated infrastructure. Paragraph 3.12 of PPG2 relates to engineering and other operations, and the making of any material change of use of land. It confirms that the carrying out of such operations and the making of a material change in the use of the land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. The first question to consider is whether the proposed engineering operations and use of the land would preserve the openness of the Green Belt and not conflict with any of the purposes of including land in it.
13. The basin would effectively be cut into the existing slope of the land. Whilst this would result in a rather artificial and engineered slope containing the basin development, it would nevertheless retain openness. The altered and raised profile of the surrounding land, in the southern section of the site, between the mooring basin and the rear of properties along Wychwood Avenue, would be relatively modest and maintain openness.

³ Paragraph 1.4 PPG2

⁴ It was accepted by Mr L Osborne, during XX that Policy C2 should have a comma after the word development and on this basis Policy C2 would accord with PPG2.

14. The proposed engineering operations in the northern section of the site where most of the excavated material would be deposited are extensive. The overall ground levels across most of this area would increase. Nevertheless, the resultant profile of the land, once restored, would not be at odds with the surrounding land. Despite the increase in levels across the northern area, there would not be an appreciable loss to openness. With the exception of the access the area would remain free from built development.
15. However, to determine whether the proposal would maintain openness and whether or not it would conflict with the purposes of including land in the Green Belt, it is necessary to also consider the impact of the actual use of the land for the intended purpose; in this case the mooring of boats. This must be so, as a comparison needs to be made between the existing situation and that which would arise should the development take place.
16. I recognise that the proposed use would provide opportunities for outdoor recreation, one of the objectives for the use of Green Belt land set out in PPG2⁵. Nevertheless, there are likely to be a substantial number of boats moored at any one time. As such, there will be clear evidence of the use on a permanent basis. When moored, they are not transient in nature in the same way that a boat would be whilst navigating a section of canal. Having up to 140 moored boats, that may be in the region of 21 metres in length, closely spaced and concentrated within the proposed basin is part and parcel of the intended use of the land. This, compared to the effect of the existing situation comprising open agricultural land, would undoubtedly result in an identifiable and recognisable loss of openness. Whilst I recognise that occasionally the boats using the moorings as a permanent base would leave temporarily to navigate the canal system, this is not sufficient to establish that the facility would not detract from the openness of the area. Added to the impact of the moored boats is the engineered retaining slope, parked vehicles, lighting and pontoons necessary to facilitate the use, all of which would be further permanent evidence of the proposed use. The development would have an urbanising impact that would not only result in a reduction of openness but would also result in encroachment into the countryside. The development would constitute inappropriate development in the Green Belt.
17. I accept that the proposed amenity building would provide no more than what may be regarded as an essential facility to support the proposed use, if permitted, and would not in itself be inappropriate development.
18. To conclude on the first issue, the proposal would introduce a use of land that would harm openness and by reason of its urbanising effect, would conflict with one of the purposes of including land in the Green Belt; that is to assist in safeguarding the countryside from encroachment. I find conflict with PPG2 and UDP Policy C2 in this respect. The purposes of including land in the Green Belts are of paramount importance to their continued protection, and should take precedence over the land use objectives.

Visual amenities and extent of harm to openness

19. I have already stated that the change of use of land would have an identifiable and recognisable impact on openness. The mooring basin would be cut into the existing ridge line thus minimising its overall visual impact from Grove Farm and properties along Wychwood Avenue. Nevertheless, it would occupy

⁵ Paragraph 1.6.

an extensive stretch of land alongside the canal. Whilst boats navigating the canal are not an uncommon or an inherently unattractive feature, I consider up to 140 boats moored in one location would have an adverse visual impact.

20. Added to the impact of the boats is the engineered and artificial profile of the resultant land together with associated access and parking, pontoons and lighting which would cumulatively have an urbanising impact that would be of further detriment to the visual amenities of the Green Belt. The actual perceived harm to openness and the visual amenities of the Green Belt would be significant, adding to the harm by reason of inappropriateness.

Setting of Grove Farm

21. Grove Farm is a Grade II Listed Building situated approximately 180m to the north of the proposed mooring basin. The farmhouse has been sub-divided into 3 units and some of the outbuildings have been converted into residential dwellings. When constructed I accept that the canal would have had an impact on the setting of Grove Farm particularly as it would have been elevated from the surrounding agricultural land along this section of the site. It was agreed at the inquiry that the canal itself could now be regarded as a heritage asset.
22. I heard that the agricultural fields surrounding Grove Farm have already been subject to remodelling following the deposit of material arising from construction works to form the nearby M42 some time ago. Although the precise volume of material deposited is unknown, based on evidence provided to the inquiry, it appears to have been substantial. The canal is no longer elevated along this section and the contours of the land gently rise from the canal towards Grove Farm.
23. There was no dispute between the main parties that the agricultural setting of Grove Farm includes the surrounding agricultural fields at least as far as the canal. I agree with the appellant's submissions that the site has satisfactorily accommodated the existing spoil material whilst retaining openness and a natural appearance. However, notwithstanding the increase in land levels arising from the deposit and grading of material, views across the fields towards the farm and its associated buildings from the canal towpath are still available from a good stretch of it where the canal is adjacent to the northern section of the appeal site. The existing open rural character of the appeal site makes a positive contribution to the significance of Grove Farm.
24. The proposed landforms to both the northern and southern field would broadly reflect the existing landforms, retaining the general slopes of the land, plateaus and mounds. Those in the northern area are the most significant given the amount of material to be deposited. Here, the mound feature, whilst retained, would be of a greater height and broader. The plateau feature would be in closer proximity to Grove Farm. The resultant levels would produce a much steeper gradient adjacent to the canal than that which currently prevails.
25. From the public footpath running across the site, views towards the group of listed buildings would not alter significantly. A formalisation of the footpath link between the footpath that passes the site and the canal tow path will improve accessibility. The mooring basin would not detract from the setting of Grove Farm given it would be cut into the natural slope of the land. The most significant changes would be those views out of Grove Farm towards the canal and towards Grove Farm from parts of Jacobean Lane and from the tow path along the section of canal adjacent to the northern section of the site.

26. The open agricultural context of the surrounding field is, I consider, visually important to the setting of the complex of farm buildings. Whilst the profiles of the land would be altered, there overall appearance would remain open and free from built development with the exception of the proposed access. However, even though the increase in levels proposed would not be anywhere near as great as those that have occurred in the past, the open views that are currently gained from the tow path across the site to the complex of buildings and visa versa would be substantially obscured due to the raised land levels. The group of buildings would no longer occupy a commanding position when viewed from the tow path. This is evident from the photomontages produced by the appellant⁶. The agricultural context of the farm buildings would no longer be appreciated. This together with the dissection of the agricultural fields by the proposed access would be a negative impact on the setting of Grove Farm.
27. A landscaping scheme approved as part and parcel of the planning permission to sub-divide the listed farmhouse and convert the associated outbuildings to residential units provides for a substantial degree of planting around the perimeter of the site⁷. This will, in time, undoubtedly serve to contain the buildings, restricting views both outwards and towards the buildings, diluting their prominence from the canal tow path. In turn, the landscaping will diminish the historic functional and visual relationship between the buildings and the surrounding agricultural land.
28. With this in mind, my concerns about the negative impact of the remodelled surrounding land upon the setting of Grove Farm and the associated buildings, is off set by the future impact that the landscaping around the perimeter of the complex of buildings will have over time. The proposed development would consequently have a neutral impact of the setting of Grove Farm. To conclude, I find no conflict with Policy ENV6 of UDP or HE6, HE7, HE9 and HE10 of PPS5.
29. The steeper embankment that would be formed along part of the northern section of the site would appear as an extension of the existing cutting to the north of the site and would not be uncharacteristic of the canal in the immediate vicinity. The significance of the canal as a heritage asset would not be unduly harmed as a result of the development. I find no conflict with Policy HE8 of PPS5 in this regard.

Other considerations

30. Inappropriate development is, by definition, harmful to the Green Belt. It is for the appellant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
31. In support of the application, the appellant asserts that there is a need for additional moorings. This is a view supported by British Waterways (BWs) who provided evidence in this respect to the inquiry. BWs is sponsored by the Department for Environment, Food and Rural Affairs (DEFRA), a government department responsible for British Government policy in a number of areas including the inland waterways. BWs is a public corporation which runs its affairs on a commercial basis consistent with its statutory powers and

⁶ View 4 of Visual Appraisal

⁷ Appendix 17 of R Tisdall's POE

obligations for navigation and the environment; and its objectives agreed by the Government.

32. The Government's policies for the inland waterways of England and Wales are set out in DEFRA's document 'Waterways for Tomorrow' (WfT) published in June 2000. This confirms that the Government's aim is to promote the waterways, encouraging a modern, integrated and sustainable approach to their use. This involves conserving the waterways, while at the same time maximising the opportunities they offer for leisure and recreation, urban and rural regeneration, the environment, and for freight transport.
33. This was followed, more recently, by the DEFRA publication 'Waterways for Everyone' (WfE). This document sets out a vision of how waterways can contribute to a wide range of policy objectives. The commitments proposed in the document include recognition by the Government of the multi functional role of waterways and the need to maintain and improve the quality of the waterway resource and infrastructure if the public benefits delivered are to be maintained and grown. Government departments therefore encourage regional and local delivery bodies and stakeholders to take account of this in a holistic way through considering the waterways potential contribution in regional strategies, Local Development Frameworks, Local Transport Plans, green infrastructure initiatives etc.
34. UDP Policy R6 confirms that the Council, in conjunction with BWs, will seek the greater exploitation of the waterways in the Borough, whilst safeguarding their heritage and natural environment. Policy R6/1 confirms that the Council will prepare and review a canal strategy for the Borough with the aim of realising the potential recreation and leisure uses of Solihull's canals, as well as the wider benefits set out in 'Waterways for Tomorrow'⁸. No such strategy has been carried out and no provision is made to do so in the emerging Core Strategy (CS). Draft CS Policy 11 seeks to support proposals that encourage greater recreational use and enhancement of the canal network, whilst safeguarding its heritage and natural environment.
35. Marina's and moorings are seen, by BWs, as essential facilities to support the use of the waterways for tourism and leisure, and are part of the waterway infrastructure and therefore, are vital for the long term sustainability of the waterways network. It is suggested that if such development is not provided it will undermine the vitality and future of the Grand Union Canal. The general policy support at both national and local level, to maximise leisure and recreation opportunities of waterways, is a material consideration I give significant weight.
36. Under section 17 of the British Waterways Act 1995, BW insists as a condition of every boat licence that each craft on the canal network must have a 'home' mooring unless it is to be used for 'continuous cruising'. The BW 'Inland Marina Investment Guide'⁹ confirms projected moorings growth up to 2015, based on both historic trends and also based on the growth of the key canal-boater demographic (those aged 50+). Additionally, BWs believe that the penetration rate within the older age groups will continue to increase as people live longer and have healthier lives. With this factored in (i.e. a maximum case scenario), boat licence forecasts are expected to exceed 35,000 by 2015¹⁰. These

⁸ Paragraph 9.32 of UDP

⁹ Document 2

¹⁰ Figure 9 of the Inland Marina Investment Guide.

forecasts were based on 2005 data, before the down turn in the economy. Indeed there has been a reduction in the total number of licences issued over the last few years. However, it is noteworthy that the predicted maximum case forecast for the number of boat licences issued by 2010 has been exceeded¹¹. Based on the figures in the Annual Report and Accounts 2009/10 the number of boat licences issued is nearer to the 'maximum case' forecast estimated to be achieved by 2013.

37. The Inland Marina Investment Guide (IMIG) relied upon by the appellants is currently being reviewed. BWs website now stipulates that *'In light of experience gained since 2006, some of the costs and returns included within the business model are now being reviewed along with the demand forecasts. Our 2006 mid range projection of the number of new boats coming onto our network by 2010 proved to be quite accurate.'* Whilst demand forecasts are being reviewed this does not undermine the evidence relating to the actual increase in craft licences as recorded in the Annual Report and Accounts. The evidence demonstrates that there has been a clear increase in demand for craft licences and by necessity 'home moorings' above historic levels and even above the maximum case predictions made in 2005.
38. Clearly future demand remains uncertain, particularly given the current economic climate. The demand forecasts set out in the IMIG are being reviewed. Between 2008 and 2009 there has been a marked decline in the number of new boats and re-licensed boats, reflecting boat sales¹². Based on figures for the first quarter of 2010 there may well be a slight improvement on the 2009 figures. Whilst the growth in new craft licences had averaged 4% for a period of 4 years, the subsequent year (to March 2010) the increase fell to only 1.7%¹³. This would suggest that growth in demand has slowed, at least for the time being, although some growth nevertheless appears to continue.
39. Despite this growth, the Council argue that there is an existing national surplus of moorings. In a letter from BWs National Boating Trade Manager, dated 24 January 2011¹⁴, it is accepted that there is a total estimated surplus of 5,612 moorings nationally which accounts for 15.6% of the total supply. This includes 1,863 moorings with planning permission that are not yet available. Notwithstanding the growth that has occurred it would seem that it can be accommodated nationally for the time being. I appreciate that the need for moorings nationally will not necessarily be representative of all areas.
40. BWs Document 'The Need for Moorings in Solihull'¹⁵ predicts that there will be a shortfall of some 2117 moorings on the West Midlands waterways by 2012. In Solihull 22km of canal account for 28% of the total length of rural waterways in the south of the region. Some 140 moorings are already provided in Solihull, all of which are provided on-line. Based on Solihull providing a 28% share, in the region of 600¹⁶ moorings would need to be provided by 2012. These predictions are based on 2007 data and so do not take account of the current economic downturn. I heard that moorings have been taken up at other marina developments south of this area in Rugby, quicker than anticipated by BW. This may well be an indicator that there would be similar demand for off-

¹¹ Source: Annual Report and Accounts 2009/10 – Document 24.

¹² Document 10

¹³ Document 10

¹⁴ Document 10

¹⁵ Base date of document is 2007

¹⁶ Based on an existing need for 288 moorings + 298 forecast growth up to 2012 + 14 off-line moorings to off set 14 on-line moorings lost to accord with BW policy for off-line moorings – see ES Technical Appendix 10.

line moorings in the area south of Birmingham.¹⁷ However, no evidence of waiting lists was produced for these sites and I am not aware of how they compare in terms of accessibility to the wider canal network. Furthermore given that the rate of growth has slowed down, future demand for the moment is less certain. It was suggested by Mr Bays that the downturn in the economy will result in more people holidaying at home, a point acknowledged in WfT. However there is no substantive evidence to suggest that this in turn will necessarily result in a marked increase in boat ownership.

41. The location of moorings and marinas is also constrained by the available supply of water required to accommodate boat traffic and off-line facilities. I heard that in the area to the north of Birmingham, the supply of water in the canal system is very close to capacity compared with areas of the West Midlands south of Birmingham, where existing research indicates there are currently sufficient reserves of water to cater for additional moorings¹⁸. If provision is to be made in the West Midlands then it will need to be in areas south of Birmingham. This is a consideration I give modest weight. The Council accepts that there are no alternative sites for an off-line mooring development outside the Green Belt.
42. This stretch of Grand Union Canal carries very little boat traffic, compared to other sections of canals in the wider area¹⁹. A number of reasons for this were put to the inquiry. For the appellant, the lack of mooring facilities is given as the most probable reason. No marinas are available between central Birmingham to north of Napton, some 32 miles from Solihull. For those against the development, the difficulty in navigating Knowle Locks and the lack of turning places were suggested as reasons why the stretch of water is not proving to be popular. All could be a contributing factor in my view.
43. As well as reducing the distances between off-line facilities in the area, there are management advantages to BW if new moorings are provided in under used stretches of canals as boat movements are distributed and balanced out reducing problems of congestion and thus enhancing the recreational experience offered to boat users and freeing up bank space for visitor moorings. These are benefits to canal users in particular that weigh in favour of the development, albeit to a limited extent.
44. New moorings can be created either on-line or off-line in mooring basins, marinas and lay-bys which do not restrict the navigable width of the waterway. BWs Policy is to reduce on-line moorings as they slow down boat movements reducing cruising range and enjoyment, cause visual impairment in areas of countryside, lead to trip hazards, and to free up space along the canal banks to increase the opportunities in good locations for overnight and visitor moorings. Customer surveys indicate that boat owners prefer the security and greater amenity provided by off-line moorings and are prepared to travel greater distances to off-line facilities. BWs policy is to reduce permanent on-line moorings at a ratio of 1 for every 10 off-line moorings provided. The on-line moorings to be reduced should be within a 30 mile radius of a new marina development. In this case, in accordance with BWs policy, the development would result in a reduction of 14 permanent on-line moorings although I recognise some of those may, as an alternative, be used as visitor moorings. There is not an existing proliferation of on-line moorings in the vicinity of the

¹⁷ Calcutt and Ventnor Farm

¹⁸ The Need for Moorings in Solihull – ES Technical Appendix 10.

¹⁹ Plan B attached to Mr Bays' proof.

site. The overall reduction in existing on-line moorings would not be so beneficial in this area to weigh in favour of the development to any significant extent. I afford this consideration minimal weight.

45. If off-line provision is not made, I heard that BW would have to consider on-line provision to meet demand. This in itself would be an indicator of need. However, as I am not persuaded that there is a need arising at this time, I give the prospect of long lines of on-line moorings where none exist at present little weight.
46. The development would undoubtedly, in my view, have some beneficial impact on local services and facilities in Knowle and a wider area. Economic benefits of a 200 berth marina are calculated to be £421,084 total retained income per annum within a 20 mile radius and the creation of 12 full time equivalent jobs²⁰. In his 2011 Budget the Chancellor of the Exchequer published proposals to help rebuild Britain's economy. The planning system has a key role to play in this and on 23 March 2011 Greg Clark, Minister of State for Decentralisation, made a Written Ministerial Statement - "Planning for Growth" which sets out the Government's commitment to reforming the planning system so that it promotes sustainable growth and jobs. The Government expects that proposals for development and growth should, wherever possible, be allowed except where this would compromise the key sustainable development principles set out in national planning policy. This is an important consideration to which I attribute weight accordingly. Whilst marina developments can act as a catalyst for regeneration, I do not find any support for regeneration needs in the surrounding area. As such I give this prospect little weight.
47. Retaining the excavated material on site is a sustainable option and as such would not weigh against the development although nor would it be a consideration that could be afforded weight in favour.
48. The formalisation of an improved access link between the footbridge and canal towpath would be a benefit, improving accessibility to the tow path as a recreational facility, which I afford some weight.

Other matters

49. Although not areas of concern raised by the Council, interested parties raised a number of additional objections. These include the impact of the development on the living conditions of the occupiers of nearby properties by reason of noise and disturbance, light pollution and loss of outlook; increased traffic and road safety, wildlife concerns together with land stability.
50. The nearest residential properties are situated in the Grove Farm complex of buildings and along Wychwood Avenue. I viewed the appeal site from a number of these properties. The mooring basin and associated car parking would be situated at a lower level than these properties, beyond an area of re-graded land that would be restored to a mixture of open grassland, scrub and woodland planting. The long distance views currently enjoyed from the rear of properties along Wychwood Avenue would change as a result of the development. The introduction of woodland planting between the rear of properties and the mooring basin would compromise those longer distance views. However, the overall rural appearance of the area from these properties

²⁰ The Need for Moorings in Solihull – ES Technical Appendix 10

would be retained as the boats and parked vehicles would not generally be visible due to the proposed lower levels of the basin beyond the retaining embankment. As such, the resultant visual change would not unduly compromise the living conditions of the occupiers of nearby properties.

51. Unlike a 140 pitch caravan site where tourists would come to stay for the duration of a holiday, the primary purpose of the moorings is to provide a secure facility where owners can leave their boats when not in use; a permanent base. A condition could be imposed to ensure the boats are not occupied for residential purposes with the exception of that occupied by the warden. In answer to my question, Mr Bay's did not rule out the possibility of a small number of the moorings being made available as visitor moorings. The occupiers of visitor boats would not generally have access to a car so I would not expect visitor moorings to generate any material increase in traffic to and from the site. Some visitors and boat owners may choose to walk into Knowle. I would expect people choosing to walk or cycle into Knowle to use the designated footpath to Jacobean Lane and not seek to take alternative routes that would constitute trespass. It is intended that the facility is managed and there would be a warden residing on the site to monitor behaviour.
52. The type of lighting could be controlled to minimise any light pollution to an acceptable level. Given the moorings would be cut into the slope of the land, most light arising from the mooring basin and the boats moored within it would be contained at the lower level such that it would have little impact on the occupiers of nearby properties. Any lighting along the access would be visually prominent and should be strictly controlled to minimise its impact, particularly at those properties within Grove Farm.
53. Overall, sufficient distances would be retained to ensure the living conditions of the occupiers of nearby properties are not unacceptably compromised following the completion of the development through noise and disturbance or light pollution.
54. There would undoubtedly be some disturbance during the construction phase of the development but this would be temporary and a construction method statement could be approved to make sure the works are carried out in a manner that any disturbance remains at a reasonable level and at appropriate hours.
55. The development would increase the level of traffic along Jacobean Lane. I saw that there are no footpaths along Jacobean Lane. I understand vehicles associated with the sports pitches opposite the proposed access are often parked along Jacobean Lane in the vicinity of the access, particularly at weekends, corresponding with a greater level of vehicles going to and from the proposed development. Although 40 parking spaces are proposed, this would not equate to the levels of traffic generated on a daily basis. Some owners will leave their vehicle at the site whilst using their boat and may be parked for sometime without generating any traffic in the intervening period.
56. The Transport Assessment that accompanied the application observes the speeds of traffic in the vicinity of the proposed access, confirming an 85th percentile wet weather speed well within the 60mph speed limit in the vicinity of the access. Adequate visibility would be available at the site access. The weekday forecast increase in total traffic along Jacobean Lane would be less than 5%. Whilst weekend peak flows (between 1100 – 1200 hours) would result in an approximate 42% increase in traffic movements, this still equates

to less than a total of 100 movements per hour at peak times, well within the capacity of Jacobean Lane having regard to Design Manual for Roads and Bridges²¹. The resultant increase in traffic, even at peak times, is not likely to be so significant that it would impede pedestrian or highway safety or the free flow of traffic along Jacobean Lane. I am mindful that the relevant highway authority raised no objections in principle. Sufficient parking would be provided within the site.

57. In relation to the impact of the development on wildlife, the ES includes an ecology assessment²². A number of measures are proposed to avoid or mitigate any potential adverse effects upon features with ecological value and / or legal protection, to compensate for any effects that cannot be fully mitigated, and to provide biodiversity enhancements. These measures include compensatory native hedgerow planting, ecological enhancement to the area of the existing pond to be retained and increased habitat diversity. It is recognised that short term loss of habitat will occur during the construction phase. However subject to the delivery of mitigation measures, the net anticipated effect of the development on local wildlife species is assessed as positive. I am mindful that, subject to conditions, Natural England and The Wildlife Trust raised no objections²³. I am satisfied, based on the evidence before me, that there would be no adverse impact on interests of wildlife subject to appropriate mitigation measures.
58. Concerns were expressed at the inquiry about the stability of the land, particularly given the existence of lime workings in the immediate area. A letter from the Principal Engineering Contractor to British Waterways, submitted to the inquiry²⁴, confirmed that the proposed excavation works would be relatively shallow and in stable ground. The safe development of the site lies with the developer. Reasonable distances would be retained between the excavation of the basin and properties. Based on the evidence before me, this would not be a consideration weighing against the development.
59. Subject to the imposition of suitably worded conditions, I do not consider the additional concerns raised would add to the harm I have already identified.

Overall Balancing Exercise

60. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any application or appeal concerning such development²⁵. In addition to the harm by reason of inappropriateness is the significant harm I have found that the development would cause to openness & visual amenity.
61. On the other hand, there is clear government support to promote the waterways and maximise opportunities for recreational and leisure. The development would potentially result in the greater use of a currently underused stretch of water by reducing the distances between off line moorings and thereby increasing opportunities for boat users. In addition, the site is located in a part of the region where there are sufficient reserves of water. Customer preferences are for off-line moorings and there are operational advantages to reducing on-line moorings to improve the leisure boating

²¹ DMRB standard TA 79/99 'Traffic Capacity of urban Roads'.

²² Chapter 14

²³ Document 19 - bundle of consultation responses.

²⁴ Document 31,

²⁵ Paragraph 3.2 of PPG2

experience and freeing up bank space for visitor moorings. These are all considerations that I have attributed varying weight in support of the proposal, although I have found none to be of substantial weight.

62. If Solihull is to make provision to accommodate any future demand, based on the 28% length of rural canal that runs through the borough that is found in the West Midlands region, then it will be situated in the Green Belt as the Council accepts there are no alternative non-Green Belt locations. Whilst BWs objectives are approved by Government, neither national nor regional planning policies explicitly guide the location of new moorings and marinas or seek to distribute them based on the length of canal in any particular district, irrespective of land designations. Overall, I do not accept there is an existing need for additional moorings nationally. The position in the West Midlands is not so clear, although I am not persuaded that there is a pressing need at this time. Future demand is less certain given the economic climate and the demand forecasts in the IMIG are under review. The likely demand for moorings at Grove Farm may be narrowed due to the need to navigate through Knowle Locks to travel south along the canal.
63. To conclude, I consider the other considerations advanced in support of the development, either individually or cumulatively, would not clearly outweigh the harm by reason of inappropriateness and the other harm I have identified. The appeal fails.

Overall Conclusions

64. For the reasons given above I conclude that the appeal should be dismissed.

Claire Sherratt
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Nardia Sharif of Counsel	Instructed by Richard Lloyd Williams, Solicitor to Solihull Metropolitan Borough Council.
She called	
Edmond Booth BA(Hons) DipUD MRTPI IHBC FSA	Director of The Conservation Studio consultancy.
Tim Jackson BA(Hons) Dip LA CMLI	Director for FPCR Environment and Design Ltd.
Lawrence Osbourne PG DipTP MRTPI	Area Planning Officer for Solihull Metropolitan Borough Council.

FOR THE APPELLANT:

Jeremy Cahill Queens Counsel He called	Instructed by David Keyte, CgMS Limited.
Richard S Tisdall BScHons, M Phil, CMLI, AIEEM	Tisdall Associates.
Gregory Beale MSc(Hons), BA(Hons) DipTP, IHBC, MRTPI	Heritage Planning Practice Ltd.
Peter Bays RICS	Ex-Commercial Manager New Marinas Unit, Denhurst Management Limited.
David Keyte BA(Hons), MRTPI	CgMs Limited.

INTERESTED PERSONS:

Tony Pledger	Local resident.
Terrance Mandrell	Local resident.
Nigel Dudley	Local resident.
Mr D Bridgwater	Local resident
Eric Fyfe	Local resident.
Martin Ennis	Local resident.
Leighton Jones	Knowle Local Civic Society.
Geoffrey Heaps	Local resident.
Dr R Pearson	Local resident
Mr B Hewitt	Of B H Boats (Fitting & refurbishment of narrow boats) & Boat owner.

DOCUMENTS RECEIVED AT THE INQUIRY

- 1 Statement of Common Ground & Addendum
- 2 British Waterways publication - Inland Marina Investment Guide.
- 3 Appeal decision reference APP/P2365/A/10/2120291 (submitted by LPA)
- 4 Opening Statement on behalf of the Appellant.
- 5 Extract from the British Waterways Act 1995
- 6 Defra publication - Waterways For Everyone (The Government's strategy for the inland waterways of England and Wales).
- 7 Letter from CgMs Consulting to Solihull Metropolitan Borough Council (Mrs Julia sykes) dated 9 October 2009.
- 8 Court of Appeal Decision: Wychavon District Council v SSCLG & K Butler & L Butler [2008] EWCA Civ692.
- 9 Opening Statement on behalf of Solihull Metropolitan Borough Council.
- 10 Letter dated 24 January 2011 from Phil Spencer, National boating Trade Manager of British Waterways to Mr Bays
- 11 Statement & Appendices of Mr T. Pledger, a local resident.
- 12 Statement of Mr T. Mandrell, local resident.
- 13 Statement & Photographs submitted by Mr M Ennis, local resident.
- 14 Statement & photographs submitted by Mr N Dudley, local resident.
- 15 Proposed landform profile superimposed by Mr Jackson on Appendix 3D of Mr Tisdall's proof.
- 16 Letter dated 21 January 2011 from CgMs Consulting (David Keyte) to Solihull Metropolitan Borough Council (L Osbourne).
- 17 Net Surplus Mooring Berths v Licenses (produced by SMBC).
- 18 Extract from British Waterways web site concerning the Inland Marina Investment Guide.
- 19 Copies of Consultation responses.
- 20 Definitive List of Application Plans (as refused by the Council).
- 21 Emerging Core Strategy Policy 11.
- 22 Landscape Assessment Methodology (Mr Tisdall)
- 23 Suggested Conditions.
- 24 Extract from British Waterways Annual Report 'Chairman's Statement'.
- 25 Statement on behalf of The Knowle Society.
- 26 Statement by Mr G Heaps, local resident.
- 27 Bundle of authorities submitted for the appellant:
 - (a) Appeal decision - APP/R2900/A/06/2022344 (Shotton Opencast coal mining, Northumberland).
 - (b) Wychavon DC v SSCLG & Kathleen Butler & Leonard Butler [2008] EWCA Civ 692
 - (c) House of Lords decision: South Lakeland DC v SSE [1992].
- 28 Section 55 of the TCPA 1990.
- 29 British Waterways letter dated 8 February 2011 relating to the length of rural waterway in the Solihull district.
- 30 Statement of Mr B Hewitt.
- 31 Letter from Greenford (Principal Engineering Contractor to British

waterways and the Environment Agency) to J Cahill dated 26 January 2011.

- 32 Extract from Defra publication 'Waterways for Tomorrow'.
- 33 Closing submissions on behalf of the Council.
- 34 Closing submissions on behalf of the Appellant.