

Additional submissions - Application for change of use to 3 No. residential moorings at land (canal) adjacent to The Old Orchard, Grand Union Canal, Park Lane, Harefield.

Introduction

1. The case officer has requested additional submissions on the following points:
 - Compliance with locational criterion of the relevant development plan policy
 - Lack of alternative moorings
 - Green belt VSC test (solely with regard to residential paraphernalia on bank)
 - Parking arrangements
 - Locational sustainability
 - Personal circumstances of the occupants
2. In addition, points are made on the lack of a 5 year supply of residential moorings and the option of a temporary consent. Each point will be dealt with in turn below:

Compliance with locational criterion of the relevant development plan policy

3. We accept that the application proposal is not compliant with the first criterion of policy BE33. However, as we noted in the application letter emerging policy DMHB20 lowers the bar on this point by inserting the word '*generally*'. Given the stage of the plan it is suggested that this policy is able to be given some weight as it is an indication of the 'direction of travel' and as it is understood there are no objections to the wording.
4. Looking solely at the adopted policy our position is that the lack of alternative moorings and the personal circumstances of the residents when considered in the light of Article 8 HRA1998 and the PSED (see below) are material considerations which outweigh the breach to the policy.
5. Turning to the emerging policy, we would suggest that some development of moorings in rural areas is permissible, and that the Article 8 and PSED points add weight to this assertion.

6. Furthermore, we would draw attention to our comments at para. 22 of the application letter which highlight the approach taken by the BW guidance to rural / Green Belt moorings. This is a material consideration that can be used in support of a departure from the development plan both adopted and emerging.

Lack of alternative moorings

7. The lack of alternative moorings is covered in the bundle of confidential documents. We are waiting on further evidence with regard to this point.

Green belt VSC test (solely with regard to residential paraphernalia on bank)

8. The canal itself does not fall within the Green Belt, as such no VSC test is necessary for the boats themselves. Concern has been raised with regard to the residential paraphernalia. We would invite the LPA to take the approach that the residential paraphernalia on the bank would be lawful in other kinds of moorings which do not require PP. Para. 23 of the application letter cites an appeal DL which provides support for this approach.
9. It is acknowledged that during the agent's original site visit the level of paraphernalia observed was considerably more than would be anticipated in the case of home or holiday moorings. The suggestion would be that a suitably worded condition could require details of such paraphernalia to be submitted and agreed in writing with the LPA. This way the LPA will have a means of control of the on bank paraphernalia.

Parking arrangements

10. It is understood that the lane where the residents park is owned by the same landowner that rents them the field. As such, a condition could require details of three parking spaces to be submitted (ie requiring these to be marked off).

Locational sustainability

11. The specific development plan policy refers to moorings being located in urban areas. However, the justification given for not locating them in rural areas is that they would be incongruous, there is no mention of access to services. As noted in the application letter at para. 28 the BW guidance acknowledges that many residential moorings are some distance from services, and the distances cited are greater than those set out for the application site.

12. The key point to consider is that moorings are a materially different form of development to that of the provision of residential housing, as such being that the locations available for them are significantly more limited. As such the consideration of locational sustainability should be given a more generous application than that given to conventional housing development.

Personal circumstances of the occupants

13. A bundle of confidential documents set out the position for the occupants of the boats, Mr Lewin, Mr Rickford and Mr Hibbett. These documents demonstrate the following:

- There are no alternative moorings available
- All three have health conditions which require a settled residential mooring

14. If the personal circumstances of the occupants are given weight then it is suggested that a personal occupancy condition is applied to any consent granted.

5 year supply of land

15. Section 124 of the Housing and Planning Act 2016 states:

124 Assessment of accommodation needs

(1) In section 8 of the Housing Act 1985 (periodical review of housing needs), after subsection (2) insert—

“(3) In the case of a local housing authority in England, the duty under subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of—

(a) sites on which caravans can be stationed, or

(b) places on inland waterways where houseboats can be moored.

(4) In subsection (3)—

“caravan” has the meaning given by section 29 of the Caravan Sites and Control of Development Act 1960;

“houseboat” means a boat or similar structure designed or adapted for use as a place to live.”...

16. It is understood that this work is being undertaken at present. As such, it follows that the LPA is obliged to identify a 5 year supply of residential moorings as part of its Housing Land supply. Given that the present application identifies 3 individuals in need of a mooring and there is an absence of alternative moorings available it can be reasonably assumed that there is a lack of a 5 year supply of land for moorings. As such paragraphs 14 and 49 of the NPPF come into play.

17. That being so, it is also clear that the adopted development plan policy on residential moorings is technically ‘out of date’ for the purposes of *paragraph 49 of NPPF*. It follows that the *presumption in favour of sustainable development* is clearly relevant. As *paragraph 14 of NPPF* makes clear, where the development plan is absent, silent or relevant policies are out of date, the presumption requires decision makers to grant permission *unless*:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted.*

18. Given our comments on Green Belt point above, as such this is not a case in which the NPPF indicates that development should be restricted and so the approach that ought to be adopted is clear; are there any adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits that would arise? It is our case that planning permission should be granted on this basis.

Temporary consent

19. If the LPA is against us on a permanent consent then we would request a temporary consent of 5 years whilst alternative moorings are made available.

Dr. Simon Ruston MRTPI October 2016.