

APPLICATION REPORT – 19/00106/FUL

Validation Date: 6 February 2019

Ward: Brindle And Hoghton

Type of Application: Full Planning

Proposal: Erection of a tipi from 1st May to 1st October each year to be used as an outdoor activity centre and wedding/events venue with associated car parking (resubmission of planning application ref: 18/00972/FUL).

Location: Canal Boat Cruises Riley Green Marina Bolton Road Withnell Preston PR5 0SP

Case Officer: Chris Smith

Applicant: Canal Boat Cruises

Agent: N/A

Consultation expiry: 7 March 2019

Decision due by: 24 May 2019

RECOMMENDATION

1. It is recommended that this application is refused for the following reasons:
 - i) Although some weight is given in favour of the application in relation to the economic benefits of the proposal, it is not considered that there are very special circumstances sufficient to outweigh the harm to the Green Belt caused by the inappropriateness of the tipi and encroachment. The proposal is, therefore, contrary to the National Planning Policy Framework.

SITE DESCRIPTION

2. The application site is located in the Green Belt. It is a large and irregularly shaped plot of agricultural grazing land which lies between Bolton Road (A675) to the south and the Leeds Liverpool Canal which runs along the northern site boundary. An access track enables vehicle access to the site from Bolton Road.
3. The north west portion of the site behind 'The Boatyard Inn' public house contains several facilities including moorings and the applicant operates a canal boat cruise business on the Leeds Liverpool Canal. Topography across the site is gently undulating and relatively uneven sloping down and away from Bolton Road towards the northern part of the site. Several mature trees populate the site and a large pond lies in the north west corner.

DESCRIPTION OF PROPOSED DEVELOPMENT

4. The application seeks planning permission for the erection of a tipi from 1st May to 1st October each year which would be located centrally within the application site. It would be used as a base and visitor centre to facilitate the provision of a range of outdoor recreational and educational activities such as canal safaris and nature trails. The tipi would accommodate an interactive classroom and catering facilities to be used in conjunction with these activities.

5. It would also be used as a wedding events venue. The statement submitted in support of the application states that it is unlikely that the wedding use would exceed 28 days per year, that wedding numbers would be limited to 80 guests and most weddings would take place at weekends. The tipi would be on site for 5 months of the year.
6. The scheme proposes 6no. car parking spaces and 2no. spaces for minibuses. The applicant intends to utilise the existing 23no. car parking spaces which have been created for the development approved by planning application 15/00528/FULMAJ. This scheme comprises the extension of the Riley Green marina through the creation of new pontoons to create 22 new boat berths as well as a new site access, new car park and facilities to be used in conjunction with the expanded marina. Works to implement this planning permission have commenced.

REPRESENTATIONS

7. Two representations have been received citing the following grounds of objection –
 - The application site is in the Green Belt
 - The applicants have installed high opaque plastic screening across the width of the site
 - The screening is distracting to drivers
 - Noise pollution
 - Traffic
 - Ecology and potential impact on Bats
 - There are other wedding venues in the immediate area
8. Two representations in support of the proposed development have been received making the following comments –
 - The development would support rural tourism and diversification
 - Canal Boat Cruises are an award-winning business and the proposed development would be a valuable asset to the business and would help it to diversity into larger functions
 - Development would create a minimum of six full time members of staff
 - The tipi is in an extraordinarily beautiful and unique setting
 - The proposed development is essential in order to allow local businesses to grow
 - It would boost the local economy

CONSULTATIONS

9. **Greater Manchester Ecology Unit (GMEU)** – Have no objections subject to the inclusion of conditions.
10. **Canal & River Trust** – Have confirmed that they have no comments to make.
11. **Lancashire Highway Services (LCC Highways)** – Have stated that they do not have any objections to the proposed development and are of the opinion that it would not have a significant impact on highway safety, however, conditions are recommended.
12. **Chorley Council's Environmental Health Officer** – Has stated that the applicant has provided sufficiently detailed documentation, evidence and mitigation proposals to demonstrate that the proposed development would not result in any adverse impacts on nearby residential properties, however, any grant of planning permission, should be subject to the inclusion of a condition requiring the installation of a sound limiting device set at 85dB(A).
13. **Hoghton Parish Council** – Have stated that the application should be subject to strict control of the proposed numbers using the Tipi, provision of adequate car parking and parking restrictions on Bolton Road.

Applicant's case in support of the application in the Green Belt:

14. The tipi would be the base from which outdoor educational and outdoor pursuit activities take place. This would be the primary use of the structure. As ancillary to the outdoor activities business it is an acceptable use within the Green Belt. The wedding use would be restricted to 28 days a year and will be secondary to the primary use.
15. Need to diversify: The existing canal focussed business was badly affected by the closure of the canal in the summer of 2018. If the business is to become more resilient to climate change impacts, it needs to diversify into other forms of income generation on the site.
16. Five months use only: The tipi will only be used over the summer months. It is impractical to erect and take down after every event. It is proposed that the tipi be taken down before the start of October and erected after the 1st of May each year. As a result, the impact on the Green Belt will be significantly reduced.
17. The site already has established screening through the mature deciduous woodland. As the tipi would only be in place over the summer, the screening would remain fully intact and the tipi would not be in place when surrounding trees are not in leaf.
18. Noise impacts will be minimal as demonstrated by the noise impact assessment.
19. The temporary tipi is the only new structure. The existing marina reception building and car park are more than sufficient for the proposed use.
20. The site will provide a unique learning environment for local schools and colleges with significant social and environmental benefits to the local community.

PLANNING CONSIDERATIONS

21. It is considered that the main issues for consideration in this application are as follows;
 1. Principle of the development in the Green Belt
 2. Impact on the character and appearance of the locality
 3. Impact on the amenity of neighbouring occupiers
 4. Highway safety
 5. Ecology and trees

Principle of development in the Green Belt

22. The application site is located in the Green Belt. National guidance on Green Belt is contained in Chapter 13 of the Framework which states:

133. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

134. Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

143. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness,

and any other harm resulting from the proposal, is clearly outweighed by other considerations.

145. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified

In addition, paragraph 146 states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

There are a number of exceptions which include:

- e) Material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);

- 23. In order to consider the impact of the proposed development on the Green Belt it must first be established whether the proposed structure is considered to be a building. Section 336 of the Town and Country Planning Act 1990 (The Act) defines the term building as “any structure or erection, and any part of a building as so defined”.
- 24. When determining whether something can be taken to constitute a building operation, each case needs to be considered on its own merits considering its size, permanence and physical attachment as to whether a building operation has occurred or it is merely the placing of a ‘chattel’ on land. Case law has established (*Cardiff Rating Authority v Guest Keen Baldwin’s Iron and Steel Co 1949*) that there are three tests to be made in determining whether a building constitutes operational development. These include whether its size would be such that normally it would have to be built on site rather than brought to the site ready-made; whether the construction would suggest some degree of permanence meaning it could only be removed by pulling down or taking to pieces and whether the construction would be physically attached to the ground. The main issue here is whether the proposed development would be a building operation or merely a ‘chattel’ (moveable item of property) placed on land. In order to make this determination, the three tests of size, permanence and physical attachment will be considered in turn.
- 25. The proposed structure would comprise four conical sections each measuring approximately 10m by 19m, with the maximum width of the entire structure measuring approximately 25m. It would be approximately 5.5m high with a footprint of approximately 350 square metres and would, therefore, be of substantial size. It is proposed to site the tipi for five months each year. The supporting statement claims that due to the size and complexity of the structure it cannot be taken down after each event that it hosts, and it takes approximately 2 days to erect and dismantle it on site. The tipi would be fixed and secured to the ground via its own weight, a timber frame and also a series of pegs attached to the canvas. This would be a beige canvas attached to timber poles sitting on timber boards. Taking these factors

together, it is considered the tipi does not have a fleeting character but falls to be considered a building operation with a degree of permanence.

26. The design and access statement submitted in support of the application asserts that the proposed development would benefit from the exception of point b) paragraph 145 of the Framework, which states that the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments are not inappropriate so long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is noted, that at page 17 of the design and access statement, that this is the key consideration in the determination of the application.
27. In the event that the proposed development was to be considered to be an appropriate facility for outdoor recreation in consideration of exception b) of paragraph 145 of the Framework, it would be necessary to assess whether those facilities preserve the openness of the Green Belt and whether the proposed development would conflict with the purposes of including land within it. Whilst the impact of development upon the openness of the Green Belt is a subjective judgment, case law establishes that objective criteria can be employed in formalising a balanced assessment. This can include the volume, the footprint and height although it is important to note that the Framework does not require such an allowance or capacity test. It is also established that the openness of an area is affected by the erection or positioning of any object within it no matter whether the object is clearly visible or not.
28. A landscape and visual impact assessment submitted in support of the application demonstrates that in visual terms the proposed development would not have an unacceptable adverse impact on the character and appearance of the immediate locality. This does not, however, counteract the impact of the proposed development on the spatial aspect of the openness of the Green Belt. The judgement in *Boot v Elmbridge* (2017) provides the proper interpretation of impact on openness which concludes that where harm to openness arises, it cannot be considered that it 'preserves' the openness of the Green Belt. The judgement is clear that the Framework does not give the decision-maker any latitude to find otherwise. The building would be sited within a field which is currently undeveloped. The proposed building would harm the openness of the Green Belt and would, therefore, fail to preserve openness.
29. Notwithstanding this, the proposed development should not conflict with the purposes of including land within the Green Belt. The purposes are set out in the Framework at paragraph 134. As the proposed development would result in encroachment into the surrounding countryside due to the incursion of built form on undeveloped land, it would conflict with point c) of paragraph 134 of the Framework. On this basis it is not considered that the proposed development would fall within exception b) of paragraph 145 of the Framework. The proposed development must therefore be considered inappropriate development in the Green Belt, which is by definition harmful to the Green Belt as set out at paragraph 143 of the Framework.
30. Whilst it is accepted that the proposed development would comprise the siting of a building to be used to facilitate some outdoor recreation in that it would serve as an outdoor activity base, it would also be used as a wedding events venue. Such a development does not fall within any of the exceptions to inappropriate development in the Green Belt set out at paragraph 145. The proposed development must therefore be considered inappropriate, which is harmful by definition, and to which substantial weight must be attached. As the proposed development would result in definitional harm to the Green Belt and other harm through encroachment there would have to be very special circumstances to justify the grant of planning permission that would outweigh this harm.
31. The Council supports new businesses where possible, both in planning terms and through its economic development team. It is considered that the proposal would bring some economic benefits to the area. Three members of staff would be employed alongside existing staff. This is given weight in the planning balance. However, case law has established (see *Doncaster MBC v SoS 10/4/2002*) that if there is a possibility that very

special circumstances could be replicated, leading to a number of permissions that would in turn degrade a stretch of green belt, this may be a potent reason for rejecting them. It is considered that the very special circumstances which are based on the diversification of an existing business could easily be replicated. Unfortunately, therefore, the circumstances advanced in support of the proposed development are not considered, either individually or when considered together, to amount to very special circumstances that would outweigh the harm to the Green Belt.

Impact on the character and appearance of the locality

32. Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that the proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.
33. The proposed tipi would be located approximately 125m to the north east of Bolton Road and the site slopes down gently in a south west to north east direction. Whilst the proposed structure would be relatively large and, therefore, partly visible from the public vantage points located along Bolton Road, it is not considered that it would be a highly visible or visually discordant feature when viewed from these points. The visual impact would be mitigated by the separation distance to the public highway, the sloping topography of the site and several mature trees that sit between the site and the public highway.
34. The Leeds and Liverpool canal is located approximately 90m to the north east of the site. Intervisibility between the proposed development and public vantage points located at the canal would be restricted by the dense and mature trees and vegetation, which lie between the north east site boundary and the canal. Whilst the character of the immediate locality is predominantly open and rural in character, there are examples of built development in relatively close proximity to the site including canal moorings and the remnants of 'The Boatyard Inn', which lies approximately 170m to the north west of the site. There is also a cluster of residential properties to the south west of the site. The tipi would not, therefore appear out of character with the context of the immediate locality where there are several examples of built development, a public highway and the Leeds and Liverpool Canal. This does not, however, counteract the impact on the openness of the Green Belt discussed above.

Impact on the amenity of neighbouring occupiers

35. Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that the development should not cause harm to any neighbouring property by virtue of overlooking, overshadowing or by creating overbearing impacts.
36. The proposal to host weddings has the potential to impact on residential amenity through noise and disturbance. However, the nearest residential property to the application site 'Quarry Barn' is located approximately 180m to the south west of the application site. A small cluster of residential properties are located to the rear of this property. A detached residential property – 'Riley Green House', is located approximately 250m to the north west of the site. It is considered that such separation would be more than sufficient to ensure that there would not be any unacceptable adverse impact on the amenity of the occupiers of these residential properties as a result of noise or any other impact.
37. The Council's Environmental Health Officer has raised no objections to the proposed development and has stated that the applicant has provided sufficiently detailed documentation, evidence and mitigation proposals to demonstrate that the proposed development would not result in an adverse impact on the nearby residential properties. This, however, would only be the case if the development would involve the installation of a sound limiting device set at 85dB(A). This mitigation measure would normally be secured by the imposition of a planning condition.
38. The Council's Environmental Health Officer has also stated that it is understood that the tipi has previously been erected and used for outdoor activities, including events where live

and/or amplified music has occurred, and there have been no previous complaints received by the Council's Environmental Health department. The council's Environmental Health Officer confirmed that he has no objections to the proposed development. Given that there are no neighbouring residential properties located in close proximity to the application site, it is not considered that there would be any other impacts on the amenity of neighbouring occupiers.

Highway safety

39. Policy BNE1 of The Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free-standing structures, provided that, the residual cumulative highways impact of the development is not severe and it would not prejudice highway safety, pedestrian safety, the free flow of traffic, and would not reduce the number of on-site parking spaces to below the standards stated in Site Allocations Policy – Parking Standards, unless there are other material considerations which justify the reduction.
40. The application site would be accessed from the A675 Bolton Road using an access point approved under planning application 15/00528/FULMAJ. This scheme involves the extension of the Riley Green marina through the creation of new pontoons to create 22 new boat berths as well as a new site access and the creation of a new car park to be used in conjunction with the expanded marina. At the time this application was being considered, LCC Highways stated that the visibility from the access point would be acceptable. As this is the case, it is considered that it would be acceptable for the current scheme to utilise the same access point. The main highway issue relates to the provision of on-site car parking spaces.
41. LCC Highways have confirmed that the proposed development would be acceptable in principle from a highway safety perspective although they stated that new and additional on-site car parking spaces would be required to serve the extra numbers of vehicles, which would access the site.
42. On-site car parking was one of the key considerations for the development approved under application 15/00528/FULMAJ and the parking arrangements for this scheme were deemed to be acceptable based on a very precise calculation of the number of spaces that would be required for a canal/marina development. Indeed, the applicant provided justification for the level of parking proposed under this application, by submitting a survey of eight other canal marina facilities in Lancashire where the average parking at other marinas was equivalent to 0.8 spaces per berth.
43. Based on this information, a car park providing spaces for 23 cars was considered to be acceptable for the marina development, which included the provision of 22 moorings. This did not, however, consider any potential for future development or expansion of activities at the site and the number of spaces was justified on the basis that they would serve the development to expand the marina and not future development that would generate demand for increased on-site car parking in its own right.
44. The applicant has stated that this car park would now be for the sole use of the proposed development subject of this application and would not be used for the development at the marina. The current scheme also proposes an additional 6no. car parking spaces and 2no. spaces for minibuses, although the applicant claims the existing car park can be marked out safely to accommodate 35 cars. LCC Highways have stated that they do not have any objections to the proposed development subject to a condition requiring that the marina development is not fully progressed in order to allow the car park to be used solely for the development subject of this application.
45. It is not considered, however, that it would be possible to control the progress of the development of the marina through a planning condition or impose a condition requiring the car park to be used solely for the current development. Such conditions would not comply with the tests for planning conditions detailed at paragraph 55 of the Framework which states that "planning conditions should be kept to a minimum and only imposed where they

are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”.

46. Whilst the applicant has stated that they are not looking at progressing the marina development at the moment, on a visit of the site it was observed that works to erect the facilities building approved under planning application 15/00528/FULMAJ have commenced and the applicant has not confirmed that it is no longer their intention to progress the marina development at some point in the future. Furthermore, it would not be possible to enforce a planning condition which would restrict the progress of the marina development.
47. It is noted that the applicant has stated that 35 spaces could be provided, however, no plans showing this level of parking provision have been provided and only 6no. additional spaces are now proposed as well as 2no. minibus spaces. It is not considered that this would be a sufficient level of on-site parking provision relative to the size and scale of the building proposed. Furthermore, it would not be possible to control through a planning condition, the means and methods by which groups or individuals would travel to the site and the applicant would not be able to prevent people from attending the venue arriving in their own vehicle.
48. It is acknowledged that the proposed development would not provide an adequate level of on-site car parking provision to support the activities that are now proposed together with that required by the previously approved scheme when implemented in full. The imposition of a condition cannot prevent the marina from being built and the applicant has not indicated that they would enter into a legal agreement not to complete it. Indeed, it is understood that it is still the applicant's intention to complete the marina at some point in the future given that the planning permission will remain extant following the construction of the facilities building. However, in the absence of any objections from LCC Highways, it is not considered that refusal of the application could be sustained on highway safety grounds despite the lack of on-site car parking provision. Therefore, should Members be minded to approve the application, consideration should be given to whether a legal agreement is necessary whereby the applicant undertakes not to implement the marina.

Ecology and trees

49. A large number of mature trees are located around the site including a series of hawthorn, oak and holly trees protected by a Tree Preservation Order (TPO no.7 (Withnell) 1981), however the proposed tipi would be too far distant from these trees to have any impact on them.
50. The Greater Manchester Ecology Unit (GMEU), the council's ecology advisor, has not raised any objections to the proposed development. They have, however, stated that bats are likely to use the surrounding trees on site and the canal for commuting and foraging. It is, therefore, recommended that any lighting during construction and post development should be away from any of the surrounding trees and canal. This could be controlled through the imposition of a condition. The council's Tree Officer has not raised any objections to the proposed development.

CONCLUSION

51. The proposed development would not benefit from any of the exceptions listed at paragraph 145 of the Framework and there would be other harm through encroachment. It, therefore, constitutes inappropriate development which is by definition harmful to the Green Belt as set out at paragraph 143 of the Framework. The proposal is, therefore, contrary to the National Planning Policy Framework.

RELEVANT HISTORY OF THE SITE

Ref: 07/00794/FUL **Decision:** PERFPP **Decision Date:** 19 October 2007
Description: Additional car parking (37 spaces) with 4no. lighting columns.

Ref: 15/00528/FULMAJ **Decision:** PERFPP **Decision Date:** 30 September 2015
Description: Extension to existing marina by connecting it to the existing disused flooded quarry

(known as the Shale Hole), new set of pontoons to create up to 22 new boat berths, new access and access track from Bolton Road, creation of new car park and new facilities building.

Ref: 18/00386/DIS **Decision:** REDISZ **Decision Date:** 8 August 2018

Description: Application to discharge conditions 5 (details of isolation structure of marina), 10 (biodiversity enhancement) and 11 (lighting scheme) of planning permission 15/00528/FULMAJ (Extension to existing marina by connecting it to the existing disused flooded quarry (known as the Shale Hole), new set of pontoons to create up to 22 new boat berths, new access and access track from Bolton Road, creation of new car park and new facilities building).

Ref: 18/00446/FULMAJ **Decision:** PERFPP **Decision Date:** 10 August 2018

Description: Section 73 application to vary condition 3 (approved plans) attached to planning approval 15/00528/FULMAJ to reposition the shop and office building.

RELEVANT POLICIES: In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.