British Waterways



9th February 2009

Our Ref BWYS-PLAN-2008-01276-2
Your Ref 08/00553/FUL

Hinckley & Bosworth Borough Council
Head of Culture and Development
Council Offices
Argents Mead
Hinckley
Leicestershire
LE10 1BZ

Dear Ms Forman

The Town & Country Planning Act 1990 (as amended)
Planning & Compulsory Purchase Act 2004
Application No: 08/00553/FUL
Proposal: Creation of canal boat marina with associated landscaping.
Location: Land at junction of Wellsborough Rd/Congerstone Ln, Market Bosworth, Leicestershire21 November 200822 January 2009Test Name (3495834-895843)
Waterway: Ashby Canal

I refer to my formal statutory consultee's response of 16 December 2008, in which I confirmed that British Waterways was content with the proposed development, subject to the issues raised in that letter.

Since this response, several other issues have been raised by other consultees and I wish to clarify British Waterways position on these from a planning perspective.

I note the points made by the Inland Waterways Association in their letter of 29 January. I understand that these matters have been considered by British Waterways' New Marinas Unit together with the applicant and I do not wish to comment further on these issues from a planning perspective.

I have also had sight of the representations of Natural England, dated 16 December 08 which raises concerns over the presence of Great Crested Newts and the potential adverse impact on the nearby SSSI . I have also seen am email from Natural England dated 29 January, which suggests that concerns over the Great Crested Newts could be overcome with suitable planning conditions relating to surveys etc but maintains the objections relating to the disturbance to the SSSI.

British Waterways has a statutory duty under section 22 of the British Waterways Act 1995, to further the conservation of flora and fauna of special interest in so far as it is consistent with its other statutory duties and to take into account the effects on such flora and fauna when considering proposals relating to its functions. In addition, section 40 of the Natural Environment

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and Rural Communities Act 2006 imposes a further duty on British Waterways to have regard to the purpose of conserving biodiversity, so far as this is consistent with the exercise of its functions.

Furthermore, British Waterways, as a statutory undertaker, must also comply with the amended provisions of section 28 of the Wildlife and Countryside Act 1981 relating to the notification of Natural England prior to giving permission for operations to be carried out which are likely to damage the special interests of a SSSI. We are also aware of the offences relating to Great Crested Newts in the Wildlife and Countryside Act 1981and the Habitats Regulations 1994.

Notwithstanding the comments of Natural England, British Waterways, in its capacity as statutory consultee, remains content with the proposed development and I would like to repeat the assertions made in my previous letter. However, I would also like to reassure Hinckley & Bosworth that British Waterways are aware of its statutory obligations to notify Natural England prior to granting consent for the applicant to connect the marina to the Canal and to take any representations of Natural England fully into account.

In the meantime, I understand that British Waterways' New Marinas Unit are working together with the applicant to address the concerns raised by Natural England in relation to the application for planning permission and I would be happy to discuss the possible imposition of suitable conditions or planning obligations from a British Waterways' planning perspective. We have no record of the presence of Great Crested Newts in the Ashby Canal itself, however, British Waterways would naturally expect the developer to comply with the legal provisions relating to the protection of this species in the Wildlife and Countryside Act 1981 and the Habitats Regulations 1994 if their presence is confirmed near to the development site.

Finally, I would like to add that British Waterways publishes a handbook for all boaters in conjunction with the Environment Agency which is enclosed and sets out our strict standards in relation to discharge from boats.

Yours sincerely

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Planner
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