

Planning Appeal

Appellant: W A Adams Partnership

**Property: Glebe Farm, Boddington Road, Claydon, Banbury,
Oxon, OX17 1TD**

Planning Application Reference: 20/02446/F

Local Planning Authority: Cherwell District Council

Formation of Inland Waterways Marina with Ancillary Facilities
Building, Car Parking, Access and Associated Landscaping
including the Construction of a New Lake – Resubmission of
18/00904/F

STATEMENT OF CASE

Prepared by:

**Stephen Rice BSc Hons (Agric) MRICS AssocRTPI
SBRice Ltd**

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1.0 BACKGROUND

- 1.1 The appeal site comprises approximately 17.79 hectares of agricultural land located immediately to the north of the Oxford Canal, the site known as Glebe Farm forms part of Springfield Farm which is owned and operated by the Appellants.
- 1.2 A full planning application, reference 20/02446/F for the proposed development of an inland waterways marina with ancillary facilities building, car parking, new access and associated landscaping including the construction of a new lake was submitted and validated in September 2020. The application was a resubmission of an application for the same development, reference 18/00904/F which had previously been validated in May 2018. An Officer's Report recommending approval had been prepared for consideration at a September 2019 Planning Committee. The planning application was subject to no objection from the Environment Agency or the Lead Local Flood Authority who at that point had failed to provide a response. Following a late objection from the Environment Agency dated 12 September the application was withdrawn on 16 September.
- 1.3 The subsequent resubmitted application, reference 20/02446/F was also recommended for approval and was considered by the Council's Planning Committee on 14 January 2021. The Planning Committee refused the application.
- 1.4 I am instructed by W A Adams Partnership to prepare and submit an appeal against refusal of the aforementioned planning application.
- 1.5 This Statement of Case refers to and incorporates information that was submitted in support of the planning application.

2.0 QUALIFICATIONS AND EXPERIENCE

- 2.1 My name is Stephen Rice. I am the Managing Director of SBRice Limited, a small firm of Chartered Surveyors who specialise in rural planning and development including inland marina schemes and other leisure developments. I regularly deal with applications for inland marinas and am therefore fully conversant with the relevant planning issues.
- 2.2 I am also a qualified farm business consultant with over 35 years' experience in both practical farming and agricultural consultancy.

2.3 I hold a Bachelor of Science (Honours) degree in Agriculture from the University of London and am a Member of the Royal Institute of Chartered Surveyors (RICS). I am also an Affiliate Member of the Royal Town Planning Institute (RTPI). The contents of this Statement of Case comply with the RICS and RTPI Codes of Professional Conduct.

2.4 I commenced my practical farming career in 1987. I have been in professional practice since 1993 and have held partnership status at Bidwells and Fisher German. Since 2012 I have been the Managing Director of SBRice Ltd.

3.0 THE PROPOSED DEVELOPMENT AND KEY ISSUES

3.1 Planning History

3.2 As detailed above, a previous planning application for an identical development, 18/00904/F was withdrawn on 16 September 2019 in order to address a late objection to the proposed development from the Environment Agency (EA).

3.3 The Officer's Report recommending approval, subject to no objection from the Environment Agency or the Lead Local Flood Authority, had been drafted and signed off and circulated to members of the Planning Committee who were due to consider the application at their scheduled Committee Meeting on 19 September 2019.

3.4 Following discussions with the Planning Officer, the Appellants withdrew the application in order to address the Environment Agency objection.

3.5 Although the application had included a detailed flood risk assessment, detailed flood modelling had not been completed as it was not felt this was necessary by the Appellants' flood risk engineers. The EA objected and confirmed that detailed flood modelling should be completed to confirm the development would not have an adverse impact on flooding, only then would they be prepared to withdraw their objection.

3.6 Following withdrawal of the application, the Appellants' flood risk engineers discussed and agreed a suitable methodology with the Environment Agency for completing the detailed flood modelling.

3.7 The work was completed to the Agency's satisfaction and the application was resubmitted in

September 2020 and refused by the Council's Planning Committee on 14 January 2021 (20/02446/F). The Officer's Report for Committee again recommended approval. A copy of the Committee report can be found in **Appendix A** and a copy of the Minutes of the Committee Meeting and Decision Notice can be found in **Appendix B**.

3.8 The Decision Notice includes four reasons for refusal.

- 1. The proposed development, by reason of its nature, size and scale combined with its isolated location away from settlements, established moorings and existing popular destinations and with poor alternative transport links, would be an unsustainable insertion into the open countryside. Future users of and visitors to the development would have no realistic choice of transport other than the private car, and the proposal would result in an unsustainable form of development. The proposal would therefore be contrary to policies SLE1, ESD1, ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.*
- 2. By virtue of its scale and location, the proposed development would result in a significant increase in traffic on the surrounding road network, and it has not been demonstrated that the access to the development or the visibility over bridges in the local area would be adequate for the scale of development proposed. The proposal would therefore be to the detriment of local highway safety and contrary to policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Saved Policies TR1, TR7 and TR10 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*
- 3. By virtue of its scale and siting, the proposed development would fail to preserve the character and appearance of the Oxford Canal Conservation Area. This harm which would be less than the substantial, would significantly and demonstrably outweigh the benefits of the proposed development. The proposed development would therefore be contrary to policies ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.*
- 4. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development*

provides for appropriate footpath improvements and offsite highway improvement works required as a result of the development and necessary to make the impact of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to policies SLE4, ESD1, ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy TR1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 3.9 This report will consider the Council's reasons for refusal in the context of the proposed development's compliance with both national and local planning policies. **Appendix C** includes a copy of the local policies referred to in this report.

4.0 **RESPONSE TO REASONS FOR REFUSAL**

- 4.1 I set out below a summary of the Appellants' response to the reasons for refusal:

1. The proposed development does not constitute an unsustainable insertion into the open countryside. The proposed development provides facilities for the mooring of narrow boats, access to the canal is therefore essential and mooring developments must therefore be located immediately adjacent to the canal. Reference to the information contained within the planning application documents and further evaluation of local and national planning policies will demonstrate why the proposed agricultural diversification enterprise is sustainable when considered in the context of relevant policies relating to rural development. Further consideration will also be given to the recreational use of the proposed marina and why leisure marinas, by their very nature, are best located in a rural setting. The proposal is not therefore contrary to the policies stated in reason 1 for refusal.
2. The proposed development will not result in a significant increase in traffic on the surrounding road network and, as confirmed by the Highways Authority, the road network including the bridges referred to in the second reason for refusal are not considered a constraint to the proposed development; as such, the proposal would not therefore be to the detriment of local highway safety and contrary to the policies referred to in the second reason for refusal.
3. The Council and the Appellants' heritage consultant agree that the proposed development would have a less than substantial impact on the Oxford Canal Conservation Area. The

Appellants view the harm as being at the lower end of the scale, however it is right that considerable weight should be given to such harm¹. By reference to the application documents and further evidence provided within this statement of case, the Appellants will demonstrate that the public benefits of the proposed development are clearly sufficient to outweigh the less than substantial harm and as such therefore comply with both local and national planning policies.

4. The Appellants are in the process of preparing a planning obligation in order to ensure that the appropriate footpath improvements and offsite highway improvement works are secured, as requested by Oxfordshire County Council. It was always anticipated that a s.106 obligation would be required.
5. The proposed development forms part of a working family farm. By reference to the planning application documents and further evidence provided in this statement, the Appellants will demonstrate that the proposed rural diversification development is fully compliant with both local and national planning policies. Furthermore, the Council have appeared to discount the relevant policies relating to rural diversification and the sound arguments put forward by the Appellants to demonstrate that the rural diversification proposal is essential to ensure the long term economic viability of the family farming unit following the significant impact on the agricultural business by the loss of land for the construction of HS2, impact of Brexit and removal of subsidies.

The reasons for refusal are considered in more detail below.

- 4.2 [Response to Reason 1 – The proposed development is not an unsustainable insertion into the open countryside](#)
- 4.3 The Council consider the proposed development would be contrary to policies SLE1, ESD1 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework. (For information the references to the NPPF in the original application and the Officer’s Report and Decision Notice relate to the NPPF 2019. All other references to the NPPF, otherwise referred to

¹ To comply with the duty under the Planning (Listed Buildings and Conservation Areas) Act 1990

- as the Framework in this report relate to the NPPF 2021 which was published on the 21 July 2021)
- 4.4 A copy of the Officer's Report to Committee can be found in **Appendix A**.
- 4.5 Paragraph 9.2 confirms that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise, it also notes that the NPPF 2019 is a significant material consideration.
- 4.6 The proposed development is to provide offline mooring for narrow boats.
- 4.7 The narrow boats are used by their owners to cruise the canal network. The marina must therefore be located immediately adjacent to the canal. I consider the issues relating to site selection for marinas later in this report. In summary, most marinas are located in rural locations for a number of reasons and the rationale for the selection of the site at Glebe Farm was considered in greater detail in the application documents.
- 4.8 I would first like to consider whether a marina that is located either adjacent to or within a settlement is likely to generate less vehicle movements than one that is located in a rural setting.
- 4.9 In order to do so it is necessary to consider how a marina, such as that proposed, operates.
- 4.10 I have extensive experience in providing professional and planning advice to marina operators, this helps to inform my firm's design of such developments.
- 4.11 Offline inland marinas connected to either the canal or the river are designed to provide a safe secure mooring for a boat that will be used by the owner to cruise the canal or river network.
- 4.12 The boater will normally rent their mooring for a 12 month period. The most recent data from the Canal and River Trust confirms that the vast majority of boat owners in the UK are over the age of 55, and many of these are either retired or semi-retired.
- 4.13 Their boat often provides them with their main source of recreation and/or holidays.
- 4.14 Within a marina there will also be boat owners who may use their boats for weekends or short cruises on the network.
- 4.15 The weekenders will often remain on their boat in the marina for the duration of their stay. The

- boat provides them with a rural retreat in which they will relax and enjoy time in the countryside. These users will normally arrive at their boat with all the provisions they need for their weekend stay. They are unlikely to take the boat out onto the canal, instead preferring to stay onboard in the marina and make use for the recreational facilities either provided onsite or immediately to hand.
- 4.16 They are likely to walk from the site using one of the many accessible public footpaths or alternatively cycle to a local pub or restaurant. Many boat owners keep cycles on their boats for this very purpose. They are very unlikely to use their car. These users are less likely to be retired and will have spent the working week either commuting to work or driving as part of their employment. Their weekend retreat on their boat is, amongst other things, to escape from the need to drive.
- 4.17 Whilst it may be true that users of the marina will probably drive to the marina, once on site they have access to an alternative form of transport in the form of a boat that can gain access directly onto the Oxford Canal which itself is a well-established transport route (having been opened in sections between 1774 and 1790 to provide a link between the River Thames, Oxford and the coal fields in Coventry).
- 4.18 Please refer to the plan in **Appendix D**. I have prepared this plan to demonstrate how easily users of the Marina can gain access to the wider river and canal network and to main centres such as Banbury and Oxford where they can access facilities such a shopping, tourist attractions and public transport, should they choose to use it.
- 4.19 In order to calculate journey times I have referred to the Inland Waterways Association website <https://waterways.org.uk/waterways/using-the-waterways/boating/route-planning>. In their section on 'Canal Route Planning' they confirm "*a useful way to calculate a waterway journey time is to allow 3 miles an hour and ten minutes for each lock (6 locks an hour)*". They can also refer to <https://canalplan.uk/waterway/b035> this website provides specific guidance on journey times for cruising the Oxford Canal.
- 4.20 Cruising for 14 miles to the north in a journey time of just over 6 hours provides access to the Grand Union Canal at Napton Junction. Once on the Grand Union Canal you can cruise north to

Birmingham or south to London. It also provides access to the entire canal network in England and Wales.

- 4.21 The cruising time of 6 hours for the 14 miles to Napton is possible due to low number of locks on this section of canal. This provides users of the marina with an easy cruise up to Napton and back that is possible to complete in a weekend.
- 4.22 The marina would also provide boaters who are moored in one of the several marinas clustered around Napton with a place to safely turn their boat in order to complete their return journey, if they chose to cruise down the Oxford Canal but didn't want to progress into the flight of locks just south of the proposed marina. Once they enter the flight of locks there are very few places to safely turn their boat around to return to their mooring base around Napton.
- 4.23 The Appellants are also intending to incorporate electric charging points for customers and visitor boats in the marina. Advances in electric vehicle technology are not just restricted to motor vehicles, increasing numbers of electric powered narrow boats are appearing on the network. These include a combination of new purpose-built boats and those that have been converted from conventional diesel-powered boats to electric.
- 4.24 The centre of Banbury is a short cruise of 8 miles to the south taking approximately 5 hours. The Canal and River Trust has visitor moorings in Banbury where you can leave your boat for up to 48 hours. If however you cruise for a further 10-11 hours you reach Oxford where there are further visitor moorings.
- 4.25 On the southern side of Oxford the canal joins the River Thames.
- 4.26 Thus, users of the marina and their visitors do have an alternative means of transport. Indeed, people purchase boats because they enjoy spending their recreational time cruising in their boat, they are far more likely to cruise down the canal to visit Oxford and all its attractions rather than take their car.
- 4.27 There will also be a significant percentage (normally up to 50%) that will take their boat out of their mooring in the springtime, normally March/April and will then cruise the canal and river network in England and Wales for the spring and summer returning the boat to its mooring in late

summer/early autumn.

- 4.28 Users of the marina will not therefore be solely reliant upon their car.
- 4.29 Furthermore, when considering the sustainability of the proposed marina, the wider issues regarding travel for leisure and recreational purposes should be considered. Holidays taken abroad have a significant carbon footprint, they will either involve a ferry or journey by plane. Neither of these forms of transport can be considered sustainable. Users of the marina may indeed have to travel to the marina by car, however, an increasing number of these will either be hybrid or fully electric vehicles, furthermore, as this report explains, once at the marina very few boaters will make any further use of their car.
- 4.30 The decision states that the proposal is contrary to policy ESD16 of the Local Plan, this policy relates to the Oxford Canal.
- 4.31 The policy confirms the Council;
- *will protect and enhance the Oxford Canal corridor which passes south to north through the district as a green transport route, significant industrial heritage, tourism attraction and major leisure facility through the control of development.*
 - *will support proposals to promote transport, recreation, leisure and tourism related uses of the Canal where appropriate.*
 - *Other than appropriately located small scale car parks and picnic facilities, new facilities for canal users should be located within or immediately adjacent to settlements.*
- 4.32 The policy does not however provide any narrative to explain why the new facilities should all be located within or immediately adjacent to settlements. It does however confirm that the approach to boaters' facilities on the Oxford Canal will be set out in the Local Plan Part 2 (see paragraph B.273). This document does not yet exist, there is a recognition therefore that the adopted policies do not as yet adequately provide facilities for boaters on the Oxford Canal.
- 4.33 I would like to draw the Inspector's attention to a sequential test report that was submitted with

the original planning application as Appendix Ra and the accompanying plan as Appendix Rb.

- 4.34 The report was prepared by me .
- 4.35 The sequential test considered alternative locations for the proposed development along the canal corridor in the context of development’s potential impact on flood risk, it also considered potential locations for marina developments in the context of policy ESD16.
- 4.36 Using my extensive experience in the design and operation of canal-based marinas, I considered whether there were any other potential sites along the canal corridor within the district that would be suitable for marina developments.
- 4.37 The criteria I used to assess these potential sites were detailed in paragraph 3.7 of the report, they were as follows:
1. Proximity to the canal.
 2. Highways access and access from the marina onto the canal.
 3. Flood plain.
 4. Green Belt.
 5. Geography, i.e. height of existing ground level adjacent to the canal.
 6. Proximity to sensitive ecological sites.
 7. Proximity to sensitive heritage features.
- 4.38 The sequential test considered 14 alternative locations that had been chosen following an initial screening of the canal corridor as they had the potential to meet some of the key criteria such as proximity to the canal and suitable highways access. Only one of the 14 sites assessed, site 12 met the criteria and was adjacent to a settlement.
- 4.39 Access to site 12 will be dependent upon implementation of extant planning permissions for residential development located immediately to the west of the site that would be required in order to facilitate highways access.

- 4.40 The sequential test revealed that strict adherence to policy ESD16 with regard to new marina facilities would therefore prevent any further such development which would itself be contrary to the policy which seeks to support proposals that are promoting transport, recreation, leisure and tourism related uses of the canal.
- 4.41 I will now consider what conclusions the Council reached in their Officer's Report to the Committee with regard to the proposal's compliance with policy ESD16.
- 4.42 Paragraph 9.13 of the Officer's Report acknowledges that policy ESD16 does not set out an approach to residential canal moorings and boaters' facilities stating that this will be set out in the Cherwell Local Plan Part 2 which, as previously noted, does not yet exist. It also recognises that proposals to promote transport, recreation, leisure and tourism related uses of the canal where appropriate will be supported.
- 4.43 Paragraph 9.14 also acknowledges that the reference to new facilities for canal users as referred to in the policy was not defined, this definition was to be set out in Part 2. The Officer also acknowledges that whilst potentially being in conflict with part of the policy relating to the location, the proposal is also compliant in that it promotes transport, leisure, tourism and recreational use of the canal.
- 4.44 It is the Appellants case that such tension should be resolved in favour of a permission given that:
- In the absence of Part 2 of the Local Plan the best evidence of suitability of the site is the evidence contained in the sequential test report submitted with the application
 - A high percentage of users of the marina will travel to the marina only once or twice a year and will leave their car at the marina whilst they take their boat to cruise the canal network. Is it reasonable to expect these users to travel via public transport even if they had the opportunity to do so? It is highly likely that users of the marina will be travelling to their boat with a car laden full of items that they will take with them whilst they are cruising on their boat. These will include bedding, clothes, food, drink, possibly pets, as many boat owners own dogs, and other such paraphernalia as someone could be expected to take with them when going on

holiday for three to four months at a time, or even a long weekend. They are also extremely likely to take cycles that they will keep on their boat and use when they are moored close to settlements and use to get access to local pubs, restaurants and services.

- 4.45 The Officer agrees that marina users are likely to use their car rather than public transport and so it is illogical to refuse the application on the grounds of unsustainability and non-compliance with part of policy ESD16.
- 4.46 The report gives some consideration to paragraph 83 of the NPPF 2019, however it does not fully consider the proposal in the context of its compliance with relevant local planning policies and those in the NPPF 2019 that relate specifically to rural diversification.
- 4.47 The application made it clear that the Appellants are farmers who own the land on which the development is proposed and if permitted, would develop and operate the marina as part of their farm business. There are plenty of other examples where farmers have diversified by securing permission to construct a marina on their land and who now operate the marina as part of their diversified farming businesses. These marinas include Lilford Lodge Marina on the river Nene in Northants, Yelvertoft Marina on the Grand Union Canal in Northants and Heyford Fields Marina also in Northants.
- 4.48 I refer to paragraph 3.7 of the Officer's Report to Committee. It identifies that the Appellants put forward a number of points in support of the application and listed five. Of these, two clearly identified that the proposed development was a farm diversification project which was essential in order to help the family farming business survive the impacts of the loss of land to HS2 and Brexit and the removal of EU subsidies.
- 4.49 Paragraph 9.8 confirmed that the Council's vision as expressed in the adopted Local Plan includes plans to support a stronger sustainable rural economy that is diverse and not reliant entirely on agriculture and paragraph 9.9 acknowledges that the Council's set of objectives required to achieve its vision include objectives to facilitate economic growth and employment and a more diverse local economy, to support the diversification of the rural economy and to encourage sustainable tourism.

- 4.50 In paragraph 9.10 they confirm that rural areas must seek to provide appropriate opportunities for new jobs and that the Local Plan supports farm diversification proposals and rural employment opportunities that are sustainable and support local communities. In particular, it also encourages proposals that can support a vibrant tourist economy whilst preserving the local environment, recognising that in order to remain viable, many farms are diversifying into tourism as well as other sectors.
- 4.51 There is therefore a clear recognition by the Officer that the Council's adopted Local Plan supports rural diversification particularly schemes that will not only help to ensure the survival of the existing farming business, thereby preserving valuable rural jobs, but also those that generate new employment opportunities such as the marina proposal.
- 4.52 The Planning Statement submitted with the planning application confirmed that the existing farming business provides employment for three family members and one other full-time employee and that the marina development will create three full time and three part time jobs. It also sets out in some detail how the development will contribute to the local economy as a whole which is heavily dependent upon tourism, see para's 7.81 to 7.91 of the Planning Statement.
- 4.53 Having accepted that the proposed development potentially complies and conflicts with elements of policy ESD16, it is necessary to consider the proposed development in the context of its compliance with other policies that relate to rural development and diversification, particularly those that refer to sustainability.
- 4.54 Paragraph 9.21 of the Committee Report refers to paragraph 83 of the NPPF 2019 which confirms that planning decisions should **enable** the development and diversification of agricultural and other land based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside.
- 4.55 The Committee Report does not, however, specifically refer to paragraph 84 which confirms that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads

and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).

- 4.56 The proposed development is a farm diversification scheme that makes use of an existing family farm's assets to develop a business that would be complementary to their existing farming business, it would be operated by them as part of their diversified farm in order to offset the hugely damaging economic impact of the loss of land to HS2, Brexit and its greater impact on livestock producers and the withdrawal of production based subsidies by the UK Government.
- 4.57 I believe that the Officer, in their report to Committee, acknowledges that the proposed development is compliant with all Local Plan and NPPF 2019 policies other than partial conflict with policy ESD16. I clarify in paragraph 4.27 that policy approach to boaters' facilities on the Oxford Canal was to have been set out in the Local Plan Part 2 which has not yet been drafted. There is insufficient acknowledgement of the importance of the proposal as a farm diversification scheme and the Committee have ignored the guidance in paragraph 84 of the NPPF 2019 which confirms that many rural diversification proposals will be located in areas not well served by public transport.
- 4.58 In light of the above it is considered that the first reason for refusal provides no basis upon which to dismiss the appeal.
- 4.59 [Response to Reason 2 – The proposed development will not result in a significant increase in traffic on the surrounding road network](#)
- 4.60 I refer to the Officer's Report to Committee in **Appendix A**.
- 4.61 Paragraph 7.15 of the report confirms that Oxfordshire County Council Highways have no objections on highways grounds subject to conditions. The Appellants confirmed to the Council during determination of the application that construction works would be subject to an agreed Construction Traffic Management Plan to be agreed with OCC Highways under condition if planning permission were granted. The Section 106 contribution to footpath improvement works and an undertaking to enter into a Section 278 agreement for highway improvements is dealt with under Response to Reason 4 in this report. The Appellants had confirmed to the Council that they were happy to agree to the OCC Highways requirements regarding the Section 106 and the

undertaking.

4.62 Paragraphs 7.26 to 7.32 are a facsimile of OCC Highways' comments regarding their assessment of traffic impact.

4.63 I note that in paragraph 7.28 they confirm

- *"It is not expected for such development to generate significant movements during the local network peak hours. Although this would still be additional movements on the network, in view of the nature of development and location, this is not likely to result in a significant detriment to highways safety and/or traffic flow."*

4.64 Paragraph 7.31 confirms

- *"Acknowledgement is made of the Applicant's willingness to enter into a routing agreement that will require the construction vehicles to arrive and eventually leave via Springfield Farm, the adjacent land to the north of the site. This is illustrated on drawing reference: **AdamCM-1-5-006(Transport Routing Plan)**. This would ensure that the construction related traffic avoids the use of Boddington Road but rather utilises access to Springfield Farm which is under the Applicant's ownership. This is acceptable and should be clearly stated as part of the routing structure in the Construction Traffic Management Plan."*

4.65 Paragraph 7.32 confirms

- *"The proposed marina would have little impact upon Oxfordshire County Council roads, although it is requested that should permission be granted the authority has site of any routing agreement."*

4.66 The Officer's consideration of highways impacts can be found in paragraphs 9.35 to 9.47.

4.67 I refer to paragraph 9.42 which states

- *"The LHA (Oxfordshire County Council Highways) has not objected on highways safety grounds. It does comment that the proposal would see a "significant" increase in traffic but in view of the nature of the development and location, states that the proposal is not*

likely to result in significant detriment to highways safety and/or traffic flow”.

- 4.68 I have examined very carefully the response dated 16 October 2020 from the Senior Transport Planner with OCC Highways, a copy of their response can be found in **Appendix E**.
- 4.69 At no point does the Senior Transport Planner comment that *“the proposal would see a ‘significant’ increase in traffic”*. The Officer’s comment therefore is incorrect and, I believe, a misinterpretation of the comments they received from Highways.
- 4.70 What Highways actually said with regard to traffic impact was
- *“It is **not** expected for such a development to generate significant movements during the local network peak hours. Although this would still be additional movements on the network, in view of the nature of development and location, this is **not** likely to result in a significant detriment to highways safety and/or traffic flow.”*
- 4.71 In paragraph 9.43 the Council consider the Highways response in the context of objections received from third parties with regard to impact on the road network and the need to provide new public footpaths, etc.
- 4.72 The Council note that Highways have acknowledged the road conditions but do not consider them a basis for objection. Highways also commented that in order to prevent creeping suburbanisation of the countryside it is not appropriate to expect the development to provide or contribute towards improvements such as paved footways or street lighting in an area that has not got a poor accident record. The Council note in paragraph 9.44 that Highways have requested the provision of passing places along Boddington Road up to the county boundary and note that they could be secured by attaching conditions to any permission and that such a condition is recommended in the event that permission is granted. I refer to these passing bays under Reason 4 noting that rather than condition the provision of passing bays which the Officer had recommended in their report, the Council in their fourth reason for refusal now refer to the need for a Section 106 obligation.
- 4.73 In paragraph 9.47 the Council acknowledges that Oxfordshire County Council Highways raise no objections on highways safety grounds having taken into account the nature of the surrounding

road network and the objections raised by some residents and the Parish Council. The Council concluded that there was no evidence that a marina of the nature and size proposed and with the conditions recommended would give rise to such levels of traffic that there would be an unacceptable and severe impact on highways safety, or that the residual cumulative impacts on the road network would be severe. As such in accordance with paragraph 109 of the NPPF 2019 development should not therefore be prevented or refused on highways grounds.

4.74 The minutes of the meeting simply confirm that two local Councillors propose refusal, contrary to the Officer's recommendation, citing impact on highways safety as one of the reasons. The Councillors provided no substantive evidence to demonstrate that the evaluation carried out by the Senior Transport Planner for Oxfordshire County Highways was incorrect.

4.75 I believe the response by OCC Highways that the proposal would not generate a significant increase in vehicle movements and therefore would not have a detrimental impact on highways safety carries significant weight.

4.76 There is therefore no evidence to support the Council's second reason for refusal.

4.77 **Response to Reason 3 – The public benefits of the proposed development are sufficient to outweigh the less than substantial harm to the Canal Conservation Area**

4.78 The Appellants provided a significant amount of information regarding the public benefits that the proposed development would deliver. The public benefits derived are considered under the following headings:

- Help to satisfy demand for recreational moorings on the canal network;
- Significant contribution to local tourism;
- Generate new opportunities for rural employment;
- Provide a safe educational facility for local schools;
- Help to safeguard the economic viability of an existing farming business thereby safeguarding rural employment;

- Provide additional income for the Canal and River Trust who are responsible for maintaining the canal network.

4.79 **Demand for Moorings on the Canal Network**

4.80 Even before the impact of Covid, we had seen an increase in UK residents choosing to take their holidays in the UK rather than travel abroad. This is for a number of reasons including an increase in cost of air travel due to additional environmental taxes, increased awareness of the adverse environmental impact of foreign travel, an increase in better quality facilities for holidaying in the UK and following the Covid pandemic, concerns regarding foreign travel and the implications of quarantining, etc.

4.81 The net result is that demand for new canal boats and moorings has increased significantly in the last 3-4 years.

4.82 It is very difficult to obtain up to date data regarding demand for moorings on the canal network. The Canal and River Trust (CRT) used to collate and publish this information, however the most recent data produced by the CRT for Oxfordshire was published in 2015.

4.83 A summary of potential demand was prepared for the Council in 2018 in support of the original application, a copy of the submission and appendices can be found in **Appendix F**.

4.84 In order to determine whether there is demand for moorings in newly opened marinas I have spoken to the operators of North Kilworth Marina on the Grand Union Canal in Leicestershire that opened in May 2019. The marina has 220 berths for recreational use. The marina opened in May 2019 with a total of 62 berths already occupied. This had risen to 149 by December 2019, 187 by December 2020 and currently sits at 199.

4.85 When considering the Covid lockdowns of 2020 and 2021 this confirmation of demand is surprising. It indicates that in the last 25 months an average of 5.5 new customers per month have secured moorings in the marina.

4.86 The provision of 192 new moorings for recreational purposes on the Oxford Canal which was identified by the CRT in their press release of April 2018 as the nation's most popular waterway with boaters would therefore deliver a public benefit, this public benefit could be considered

significant when considering the huge increase in demand for UK based holidays following the effects of the Covid pandemic.

4.87 I have also spoken to a number of local boat builders who supply new boats for use on the canal.

4.88 A copy of an email from Mr Andrew Thompson the owner of Andicraft Fabrications can be found in **Appendix G**. He confirms that he has a 27-month order book for new boats. He also reports that his customers often ask him for advice on securing moorings in good quality marinas. He is rarely able to help as he is aware that most of the good quality marinas are full and the ability to find moorings is getting more difficult. He reports that boat building is booming and all good quality builders are very busy. This supports the fact that demand for moorings is also at a high level and is likely to increase.

4.89 A copy of an email from Mr Paul Smith of ABNB a boat brokerage firm can be found in **Appendix H**. Mr Smith confirms demand for new and secondhand boats is high.

4.90 These comments from businesses involved with supplying new and secondhand boats helps to substantiate that demand for moorings is also at a high level and increasing.

4.91 **Significant Contribution to the Tourism Economy of Oxfordshire**

4.92 The Local Plan recognises that tourism has scope to play a significant, wealth creating role for the district (worth over £300 million in the district) and makes a significant contribution to a sustainable local economy and that it can help support local services and facilities and provide employment. The Council recognises that policy SLE3 supports tourism growth in sustainable locations and the supporting text to the policy recognises that the Oxford Canal is not used to its full potential and access should be improved to promote green and sustainable leisure opportunities including water, cycling and boating. The Appellants in paragraph 7.66 of the Planning Statement identified the relevance of policy SLE3. The policy confirms that the Council will support new tourism provision that can demonstrate direct benefit to the local visitor economy and which will sustain the rural economy. The policy also recognises that facilities that provide for overnight accommodation not only meet the needs of visitors but also ensure that valuable expenditure associated with overnight stays is secured for the district and this helps to support local services and facilities, provides employment, promotes regeneration and helps to

- preserve the natural and historic environment.
- 4.93 The Planning Statement refers in paragraph 7.69 to a report entitled The Economic Impact of Tourism on Oxfordshire 2017 which was published as Appendix T to the Planning Statement. It also referred in paragraph 7.71 to the most recent Canal and River Trust Boat Owners' Survey of 2017.
- 4.94 Paragraph 7.72 to 7.80 provide further comment on the CRT Boat Owners' Survey Report of 2017 and an earlier survey published in 2009 that provided more information regarding cruising distances.
- 4.95 The Planning Statement concludes that on the basis of the information contained within the CRT reports it is highly likely that many users of the proposed marina would cruise the local canal network and would use local facilities such as pubs, restaurants, shops, etc.
- 4.96 Paragraphs 7.82 to 7.91 provide an evaluation of the 2017 Economic Impact of Tourism on Oxfordshire report.
- 4.97 The report concludes that in 2017 tourism earned a staggering £1.7 billion of revenue for the county supporting 36,896 jobs. More importantly, the report confirms that of the total, 3% of all domestic overnight trips involved staying on a boat mooring. These trips accounted for tourism spend totaling approximately £7.1 million.
- 4.98 The headline figures for the 2019 report has been published since the application was prepared. A copy of the summary data for Oxfordshire as a whole and the Cherwell District can be found in **Appendix J**. Tourism revenue in Oxfordshire increased to just short of £2.5 billion with nearly £500 million of that spent in Cherwell.
- 4.99 The provision of 192 recreational berths in the proposed marina will therefore make a small but very significant contribution to the local tourism economy.
- 4.100 The Covid pandemic has caused a significant increase in numbers of UK residents choosing to take their holidays in the UK. This demand has initially been focused on the usual 'honeypots' namely the Lake District, the New Forest, Cornwall and the South Coast of England. This concentration of demand puts additional environmental pressure on these areas.

4.101 Providing additional moorings for recreational purposes on the Oxford Canal will therefore help in a small but meaningful way to relieve some of this pressure.

4.102 Paragraph 10.5 of the Officer’s Report to Committee confirms that the benefits of the scheme include

- Economic benefits arising from providing more choice for boat owners;
- Increasing local visitor spend in the district as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities;
- Encouraging longer stays in the district;
- Providing valuable local employment opportunities during construction and operation in this rural area;
- Helping to sustain and diversify an existing agricultural enterprise.

4.103 The Officer therefore agreed with the Appellants’ assessment in their original Planning Statement that the proposed development would deliver benefits to the local tourism economy.

4.104 **Provide New Opportunities for Rural Employment**

4.105 The application documents confirm that the proposed development will create three full time and three part time positions. These would be new employment opportunities in a rural area and is fully compliant with paragraph 83 of the NPPF 2019 (para 84 of NPPF 2021) and the Council’s vision in their Local Plan as confirmed in paragraph 9.8 of the Officer’s Report to Committee which confirms:

- *“The Council’s vision as expressed in the CLP 2015 (page 28) includes plans to develop a vibrant, diverse and sustainable economy; to support a stronger, sustainable rural economy that is diverse and not reliant entirely on agriculture.”*

4.106 In paragraph 9.9 they confirm that

- *“To achieve the Council’s vision the CLP 2015 establishes a set of objectives to meet its themes of developing a sustainable local economy, building sustainable communities and*

ensuring sustainable development. Several of these objectives are of relevance to the application including objectives to facilitate economic growth and employment and a more diverse local economy; to support the diversification of the rural economy and to encourage sustainable tourism.”

4.107 In paragraph 9.10 they confirm

- *“The CLP 2015 also recognises that rural areas must seek to provide appropriate opportunities for new jobs, such as support for farm diversification proposals and rural employment opportunities that are sustainable and support local communities. In particular it encourages proposals that can support a vibrant tourist economy.”*

4.108 The new rural employment opportunities provided by the proposed marina development will deliver a significant public benefit and will also fully comply with the vision and objectives set out in the Council’s adopted Local Plan.

4.109 **Local Schools to Use the Facilities for Education**

4.110 I refer to paragraphs 7.116 to 7.123 of the Planning Statement.

4.111 Copies of the appendices referred to as Appendix AA in the Planning Statement are included as **Appendix K** to this report.

4.112 The Planning Statement confirms that three local schools have already been approached and have expressed an interest in using facilities at the marina for educational purposes. I believe this constitutes a valuable public benefit.

4.113 **Benefit to Existing Farm Business helping to Safeguard Rural Employment**

4.114 The proposed rural diversification opportunity will help to protect the existing farming business’s four full time employment positions.

4.115 This report provides further details on the benefits that the proposed development would deliver for the existing farming business in paragraphs 4.122 to 4.160 below.

4.116 **Additional Income for the Canal and River Trust**

4.117 I refer to the second bullet point of paragraph 7.115 of the Planning Statement. Income generated by users of the canal network is a valuable source of revenue for the Canal and River Trust.

4.118 The operators of the marina will pay an annual fee to the CRT in order to connect the marina to the canal. All boat owners are also required to obtain a boat licence from the CRT for an annual licence fee. The new moorings proposed at the marina will therefore make a valuable financial contribution to the management and maintenance of the Oxford Canal as it passes through the district. The marina will also be subject to business rates which are payable to the Local Authority. It will therefore also make a valuable financial contribution to the local economy.

4.119 **Response to Reason 4 – Unilateral Undertaking for highways improvements and PROW contribution**

4.120 The Council's fourth reason for refusal related to highway improvement works and footpath improvements.

4.121 The obligations to be contained in a Unilateral Undertaking have been discussed and agreed with Oxfordshire County Council and the appropriate obligations will be entered into and a certified copy of the Undertaking provided to the Planning Inspectorate within seven weeks of the start date letter

4.122 The Undertaking will secure the provision of three passing bays along Boddington Road as shown on the plan in **Appendix L** which has been discussed and agreed with the County Council. In addition a financial contribution to be used for footpath improvements to the PROW between the site and Claydon will be secured in the Unilateral Undertaking.

4.123 A copy of email correspondence between ourselves and the County Council's Senior Transport Planner can be found in **Appendix M**. The Senior Transport Planner confirms that the proposed draft terms are acceptable for inclusion in a suitably drafted Undertaking.

4.124 The Unilateral Undertaking will be completed before the appeal is decided. I believe therefore that this addresses the fourth reason for refusal.

4.125 [Additional Material Considerations – The proposed development’s compliance with local and national policies relating to farm and rural diversification](#)

4.126 I refer to Section 6 of the Planning Statement. Paragraph 6.1 sets out clearly the sound reasons why the Appellants are proposing to develop the new marina.

4.127 Since the application was submitted the HS2 project has commenced and the 118 acres of Appellants’ land required for construction of the new railway line has been taken by HS2. Their farming business is now directly affected by the construction of HS2. Paragraphs 7.11 to 7.20 of the Planning Statement and paragraphs 4.140 to 4.143 of this report provide more detailed evidence on the direct impact the loss of land to HS2 will have on the Appellants’ farming business.

4.128 There have also been changes to national Government policy regarding biodiversity enhancement and the obligation for all forms of development to make a positive contribution to biodiversity enhancement. As such the HS2 project will now need to deliver far more biodiversity enhancement than had previously been envisaged.

4.129 The Appellants have already been approached by HS2 and notified that they may require more permanent take of land than they had previously envisaged. Either way, even if this does not transpire and some of the land is returned to them after 10 years (post construction), a significant amount will have to be maintained as a devoted ecological enhancement area and will not be available for agricultural production.

4.130 Due to the reduction in the size of their holding which has an adverse impact on their economies of scale and thus economic viability, the Appellants need to diversify and develop sources of non-agricultural income is therefore now even more important and urgent.

4.131 I refer to section 9 of the Officer’s Report to Committee which identifies the key issues for consideration in determining the application.

4.132 The list does not include an assessment of the proposal in the context of those policies relating to farm and rural diversification. I refer also to section 10 of the report, “Planning Balance and Conclusion”.

4.133 In paragraph 10.5 they briefly consider the benefits of the scheme, these include the economic

benefits arising from providing more choice for boat owners, increasing local visitor spend in the district, encouraging longer stays in the district and providing valuable local employment. They also note that the proposal also helps to sustain and diversify an existing agricultural enterprise. However, other than this brief comment in their assessment of the proposal under the planning balance the Council do not devote any of the report to consider how important this diversification would be for an existing farming business and whether the proposal complies with the vision and objectives set out in their own Local Plan and the relevant policies in the NPPF 2019.

- 4.134 This absence of more detailed evaluation seems odd when I refer back to the Officer's consideration of the principle of development and policy context beginning with paragraph 9.2 of their report.
- 4.135 The second paragraph of this section, 9.3 refers to paragraph 83 of the NPPF 2019 which makes it clear that planning decisions should **enable** both the development and diversification of agricultural and other land based rural businesses and sustainable rural tourism and leisure developments.
- 4.136 They also refer to the content of paragraph 84 of the NPPF 2019. Paragraph 84 confirms that planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport and that in these circumstances it will be important to ensure that the development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 4.137 There were no objections to the proposed development's impact on landscape and support was received for the proposals for its ecological and biodiversity enhancement.
- 4.138 The application site is currently an agricultural field used for arable cropping. Arable fields do not offer much if any benefit for biodiversity or ecology. The marina scheme has been designed to deliver significant ecological benefits. In addition to the substantial amount of new aquatic environment, tree planting, species rich grassland, wildflower areas and scrub, the scheme also includes a proposal to significantly improve an existing County Wildlife site.
- 4.139 It was accepted that the proposal would have a less than substantial impact on the Canal

Conservation Area at the lower end of the scale and the public benefits have been identified that are sufficient to outweigh this less than substantial harm. The Appellants believe that the site is sustainable, marinas must be located immediately adjacent to the canal and their assessment of the Oxford Canal in the district confirms that there are very few suitable locations for marinas to be located. Users of the marina will use their boats as well as their cars for transport purposes. The proposal therefore accords fully with paragraphs 83 and 84 of the NPPF 2019 (para's 84 and 85 of NPPF 2021) yet this evaluation is absent from the Officer's Report.

- 4.140 In paragraph 9.8 to 9.10 the Council confirm the vision and objectives within the adopted Local Plan that relate to rural development. They confirm that the vision as expressed on page 28 of the Local Plan includes plans to develop a vibrant, diverse and sustainable economy; to support a stronger, sustainable rural economy that is diverse and not reliant entirely on agriculture and to cherish and protect the natural and built environment and historic heritage. At the same time the Council also point out that their spatial strategy to implement this vision is to focus most growth towards main towns and to strictly control development in the open countryside.
- 4.141 Farming businesses are located in the open countryside and farming diversification is supported by national planning policies (Paragraph 84 of NPPF 2021). Reference to the 2020 Agriculture in the United Kingdom Report published by DEFRA (**Appendix N**) confirms that 71% of the land in England is utilized as agricultural land. It is within this substantial area that is by its very nature 'outside main towns' that farmers will diversify. Local planning policy dictates that most growth will be focused on main towns, however, this is surely not intended to prevent growth and development in rural areas. Indeed, as detailed below, the adopted Local Plan gives significant weight to proposals for development that will help to strengthen the rural economy.
- 4.142 Paragraph 9.9 of the Committee Report confirms that the set of objectives designed to achieve the Council's vision include developing a sustainable local economy, building sustainable communities and ensuring sustainable development and that several of these objectives are of relevance to the application including objectives to facilitate economic growth and employment and a more diverse local economy; to support the diversification of the rural economy; to encourage sustainable tourism; to incorporate the principles of sustainable development in mitigating and adapting to climate change impacts; to focus development in sustainable locations

conserving and enhancing the countryside and landscape setting; reducing dependency on the car and protecting and enhancing the historic and natural environment. Other than an objection from the Conservation Officer on the grounds that the proposal would have a less than substantial impact on the Canal Conservation Area there were no statutory objections received to indicate that the proposed development was not compliant fully with the Council's objectives.

- 4.143 In paragraph 9.10 the Council confirmed that the Local Plan recognises that rural areas must seek to provide appropriate opportunities for new jobs and these include supporting farm diversification proposals and rural employment opportunities, in particular it encourages proposals that can support a vibrant tourist economy.
- 4.144 I refer to paragraphs 7.11 to 7.41 in the Planning Statement. These, along with the associated appendices, set out clearly the business case put forward by the Applicants for this diversification proposal.
- 4.145 In order to provide the Inspector with some context on the implications of the loss of subsidies and the impact of HS2 on the existing farming business, I provide the following information.
- 4.146 HS2 will result in the loss of approximately 118 acres of productive land. The land comprises a mixture of grassland for livestock and arable. As confirmed in paragraphs 7.18 and 7.19 of the Planning Statement the reduction in farmed acreage does not necessarily allow the farmer to reduce their complement of labour and machinery, therefore fixed costs will remain the same.
- 4.147 In order to consider the potential implications of the loss of land on the business you need to consider the loss of gross margin on an acreage or hectareage basis.
- 4.148 The average gross margin for winter wheat is approximately £300 per acre whereas the gross margin for suckler beef cows is approximately £150 per acre. Approximately two thirds of the land lost is arable and a third grassland, the average gross margin equates to approximately £250 per acre. This results in a total loss of gross margin of approximately £29,500 per annum which is a very significant loss of income for the family farming business.
- 4.149 Whilst HS2 should compensate the farm for the loss of the land, negotiating an acceptable level of compensation takes time and it is highly unlikely that the interim compensation payments will

- amply replace the loss of income, they will certainly not compensate the farm for the additional costs that will be incurred from the impact of the loss of land running through the middle of the farm which has implications regarding management and access.
- 4.150 Negotiating settlement of claims with HS2 is also problematic and time consuming. To date the Appellants have not received a significant amount of the compensation payments that are due to them and it is unclear when these payments will be received.
- 4.151 The impact of Brexit on commodity prices is, as yet, unknown as this story is still unfolding, however one of the direct consequences of Brexit is that the UK Government are now free to withdraw agricultural subsidies that were previously paid under the European Basic Payment Scheme. The payments amounted to approximately £75 per acre per annum.
- 4.152 The Appellants farm approximately 1,200 acres, the annual BPS subsidy therefore totals approximately £96,000.
- 4.153 Farmers are currently awaiting further details from the UK Government regarding alternative schemes that they may be eligible to enter if they carry out works to enhance the environment and improve biodiversity, however the UK Government have already announced that these subsidies are not intended to fully replace those that are to be lost under the European scheme.
- 4.154 The economic pressure therefore on the farming business to diversify and seek alternative sources of income is intense.
- 4.155 All UK farmers need to evaluate their assets and consider some form of diversification that enables them to earn alternative sources of income. The National Farmers Union published a press release on the 5 July 2021 titled (Farmers rush to diversify into new businesses to survive after EU subsidies). This article confirms that UK farmers are very concerned about the impact of Brexit and withdrawal of subsidies. The article confirms the information provided by the Appellants in the application and this report. A copy of the press Release can be found in Appendix O.
- 4.156 The proposed marina scheme will make a very significant contribution to the future economic viability of the family farm.
- 4.157 I have prepared an investment appraisal for the marina, it assumes that the total cost of

construction would be entirely funded from borrowings, however this may not need to be the case; allowing for the repayment of capital interest and tax, the net annual return on investment is 8% per annum. The appraisal does not consider inflation which is likely to increase the level of return. It is therefore a conservative estimate of the potential financial return. A copy of the appraisal can be found in Appendix P.

- 4.158 It has the potential to generate a profit in excess of £28,000 per annum assuming that all of the cost of construction is funded by a loan over a period of 25 years.
- 4.159 One of the advantages that a farmer has is the ability to structure repayments of loans over longer periods of time as they can secure funding against their farmland, which is seen by the banks as secure, they are therefore prepared to fund longer term loans.
- 4.160 Furthermore, the marina is not a depreciating asset. Its value is likely to increase over time. The loan repayments are therefore helping the Appellants to increase the value of their business assets on their balance sheet.
- 4.161 Therefore not only is the marina budgeted to make a trading profit after allowance for repayment of capital and tax, but its value also contributes to the overall value of the business.
- 4.162 The figures demonstrate that the marina is not only economically viable but also provides the family farming business with an extremely important and essential form of diversification that allows them to earn non-farming income from a business that they can manage themselves based on their own property.
- 4.163 Paragraph 84 of the NPPF 2021 that sets out Government’s guidance on supporting a prosperous rural economy confirms that
- Planning decisions should enable
 - a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings;
 - b) the development and diversification of agricultural and other land based rural businesses;

- c) sustainable rural tourism and leisure developments which respect the character of the countryside.

- 4.164 Paragraph 85 confirms that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport as long as the development is sensitive to its surroundings and does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 4.165 The proposed marina development which forms part of an existing farm business satisfies the criteria set out in paragraph 84 and 85. Oxfordshire County Council Highways considered the proposal in the context of its potential impact on the local road network and concluded that it would not have an unacceptable impact on local roads.
- 4.166 The proposal therefore complies fully with paragraphs 84 and 85 of the Framework and the Council's vision and objectives for improving rural economic prosperity, employment opportunities and developments that support a vibrant tourism economy. I believe this should be given considerable weight when considering the planning balance.

5.0 SUMMARY AND CONCLUSION

- 5.1 An application for the same development was also previously recommended for approval by the Council. The Officers Report had been prepared and circulated to the Committee. Following a late objection from the Environment Agency the application was withdrawn. Works were undertaken to address the EA's concerns and the application was resubmitted. The resubmitted application was also recommended for approval.
- 5.2 There were no objections from statutory consultees other than the Conservation Officer who confirmed that in their opinion the proposed development could have a less than substantial harm on the Canal Conservation Area. The Appellants had demonstrated in the application documents that the proposal would deliver significant public benefit that would outweigh the less than substantial harm.
- 5.3 The Planning Committee refused the application on grounds of sustainability, highways and

- heritage impact; this was contrary to the Council Officer's Report to Committee which recommended approval.
- 5.4 The proposal would not be unsustainable, neither would users of the marina be entirely reliant upon motor vehicles as their sole mode of transport. The purpose of the marina is to provide moorings for boats, boats are a means of transport which allow users of the marina to gain access to local facilities including shops, restaurants, pubs and local tourist facilities without the need to use their car. Equally, many marina users may and will choose to walk and cycle to such destinations from their boat, be it whilst cruising the canal network or whilst moored in a marina, also without using their car.
- 5.5 The response to reason for refusal 1 of the appeal sets out clearly why reason 1 for the refusal should not be a basis for refusal.
- 5.6 The local Highways Authority, Oxfordshire County Council confirmed that the proposed development would not generate significant vehicle movements on the local road network, neither would it have a significant impact on road safety. The Committee disagreed with their conclusion but without any basis. Our response to reason for refusal 2 of the appeal evaluates the comments and verdict received from the Local Highways Authority in the context of the information provided within the original application documents and reaches the same conclusion as the Officer did in their report to Committee; that the proposed development would not have a significant impact on the local road network or road safety.
- 5.7 A substantial amount of information was provided in the original application documents confirming the public benefits delivered by the scheme.
- 5.8 The scheme delivers substantial benefit to the local rural economy and tourism, users of the marina would make use of local recreational facilities such as bars, restaurants and other attractions; they would use shops within Banbury and Oxford and would be able to gain access from these hubs using public transport to access visitor attractions in and around the wider Banbury and Oxford area such as Blenheim Palace and Bicester Village.
- 5.9 The proposal would deliver new rural employment by providing three full time and three part time jobs.

- 5.10 The proposal would deliver substantial benefit to the existing farming business which currently employs four full time employees.
- 5.11 The proposed development would also be available to local schools for educational purposes.
- 5.12 The public benefits of the scheme outweigh the less than substantial harm, which is at the lower end of the scale, notwithstanding the considerable weight to be given to that harm. The third reason for refusal should not therefore be a basis upon which to dismiss the appeal.
- 5.13 The fourth reason for refusal related to the need for a section 106 obligation. The PROW contribution and provision of passing bays have been agreed with Oxfordshire County Council. They will be secured in a section 106 obligation which will be forwarded to the Planning Inspectorate in due course.
- 5.14 The proposed s106 obligation will satisfy the requirements of the fourth reason for refusal.
- 5.15 The proposed development would be retained by the Appellants and operated as a diversified business forming part of their overall farming operation. The proposed development is complementary to their business and is essential if the family farm is to remain economically viable following a significant impact on its viability from the loss of land to HS2 and the loss of agricultural subsidies following the UK's decision to leave the EU.
- 5.16 Little or no account was taken of the proposal as a farm diversification either within the planning balance considered by the Council in their report to Committee or during the Committee debate.
- 5.17 Considering the full compliance of the proposal with the relevant policies relating to rural and farm diversification both within the Local Plan and the Framework, the planning balance is very much tipped in favour of approval and I dutifully request therefore that the appeal is allowed and planning permission is granted.