

See Addendum dated 22.11.2020,
which follows.

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20th November 2020

RE App No: 20/02446/F

Objection to proposed inland marina at Glebe Farm, Boddington Road, Claydon.

Dear Ms King,

I submit this letter to you beyond the expiration date for public consultation (expired 10.11.2020) with the belief that what follows will be of interest toward further informing your impending recommendation and advice to the Committee concerning the decision for the proposed Claydon Marina.

Not read as red

It was brought to my attention that *Appendix Gb2, Part 2 of the Hydraulic Modelling Report – Revision C*, was only uploaded by Cherwell District Council for public viewing on the 18.11.2020 in compliment to *Appendix Gb1 – Part 1* of the same report, and that delay in processing of documentation pertaining to the planning application precluded any possibility of its receiving comments within the specified deadline regarding public consultation. Nonetheless, it transpires from my cursory read of it as a non-expert that there is little for me to offer in response to Part 2's content. However, I was interested in accessing the comments provided by the Environment Agency (EA) supplied within as *Appendix 18, the HEC-RAS REVIEW*, dated August 2020 (this document had not been viewable prior to 18.11.2020, which leaves me wondering whether other important documents are yet to surface). The EA commence with their *REVIEW SUMMARY/ CONCLUSION*, which provides comments in response to the Applicant's shortcomings thus far regarding models used in their submitted *Flood Risk Assessment*. Responses from the EA were forthcoming on 20.01.2020, 06.05.2020 and 30.07.2020; and in the latter, the EA state that, "*The model [supplied] is not considered to be fit for purpose.*"

A traffic light system of colour coded significance regarding the Consultant/ Applicant's objectives to meet was employed by the EA, with green representing their [EA's] preferred standard, amber providing recommendations, and red indicating compulsory amendments. I noted with amusement that in *Item No.81 concerning Model stability* that the EA's comment of July 2020 was coloured red with the comment, "*This issue has not been resolved...*" In the Consultant's response, August 2020, regarding that red comment the Applicant responds, "*It is unclear why this comment has suddenly changed to a 'must do' red comment... As such we are continuing to treat this comment as amber.*" In the event that the EA's requirement has not been met, as the Applicant's deflective comment suggests the case may be, I suspect that the Applicant may be regarded as haughty and thus further the cause in antagonizing the EA. In paragraph 8.11 of the report the Consultant/ Applicant concludes that they have provided "*sufficient information to overcome the Environment Agency objection on the grounds detailed in Appendix 2.*" (Appendix 2 is the EA's final response letter to the preceding planning application (formerly App No: 18/00904/F) which I discussed in my letter dated 09.11.2020 in para 3.5(1) and (2).) It remains to be seen if the Applicant has jumped a red light, so to speak, and how the EA respond to the data submitted in parts 1 and 2 of the Hydraulic Modelling Report. However, I shall wait with bated breath and hopeful anticipation that in the EA's analysis of data they conclude, with words analogous to and provided here to blunt effect: *the model figures presented by the Consultant/ Applicant are utilized in similar manner to that of a typical drunkard's usage of a lamppost – more for support than illumination.* It is vital to see what light the EA casts on that report.

Coronavirus Regulations Affect Planning

From passing conversation with a number of Claydon parishioners, I have gathered that due to the coronavirus a visit to the proposed site for Claydon Marina by those in the Committee and within the relevant departments of Oxford County Council and Cherwell District Council (hereon CDC) will not occur either before or after the recommendation is presented to the Committee for consideration. This news, if it is true, causes me deep concern that due process in the formation of a judgment will be forsaken. A proper assessment of physical impact from development within an area can no more be properly achieved without the undertaking of a site visit in person, than, for example, a food critic writing an informed review of a specific restaurant by simply perusing its menu. There is

(a) no short cut to first-hand experience in any matter; and (b) nothing mitigative, regarding such a matter as that of an irreversible development scheme, that may endorse a dissolution of the social and professional responsibilities resting on the shoulders of planners. A photograph is certainly better than nothing for context, but nothing is better than one gaining first-hand experience of a particular landscape to conjure up the whole gamut of thoughts and emotions evoked from one's own direct participation and presence at that location.

A drive or walk down Boddington Road from Claydon to the proposed site would reveal to the driver/ walker the field, as it currently is, exposed behind the southern boundary hedge and tree line at this time of year due to the loss of foliage. A proposed development site occupying nearly twenty hectares is too big to appreciate in scale from photographs and drawings alone. It is, however, sufficiently large to accommodate all planners and committee members whilst at the same time allowing attendees to abide by the social-distancing mandate currently in place; separate vehicles can be brought to or near to the proposed development site. If that is not regarded possible, then this planning application decision ought to be delayed until such time as the full and proper responsibilities of those involved in the decision process can be undertaken. I believe that without postponement, due not least to a lack of site visit, there would be nothing to prevent a legitimate claim being raised over negligence by omission against CDC; and particularly so, if it were to be reasonably construed that pressure had been applied to grant planning permission which consequently was given accedence.

Recommendation

If CDC is mindful to grant planning permission, a site visit should be undertaken by those involved in the final decision or the decision date should be postponed until such time as a site visit can be undertaken. Reason: duty of care.

Yours sincerely,

Iain Kirkpatrick

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22th November 2020

Addendum to letter dated 20.11.2020

RE App No: 20/02446/F

Objection to proposed inland marina at Glebe Farm, Boddington Road, Claydon.

Subsequent to my preceding correspondence, typed on my behalf and delivered by me in person to Bodicote House on 20.11.2020 (Receipt Ref: 9913), I learned, the following day [21.11.2020], that the anticipated letter from the Environment Agency (EA) had just been uploaded onto Cherwell District Council's (CDC) planning site (EA letter dated 16.11.2020, Ref: WA/2020/128350/01-L01). My wait with bated breath for the EA's response to the Applicant's revised submission concerning extant issues was therefore quite short. I note the two conditions contingent upon the EA's acceptance of the proposal; I note also the advice given to the Applicant to contact the EA in the *Informatives* concerning *foul drainage*; and the summation following from condition 2 provided in their *Reason* which refers to **Local Plan** policies **ESD8** and **ESD10**, the **National Planning Policy Framework (NPPF)** paragraphs **170** and **175**, the **Natural Environment and Rural Communities Act 2006** and the **Habitats Directive** at **Article 10**. However, I noted also what I think to be a minor inaccuracy in the letter where referring to CDC's responsibilities of enforcement of conditions and which are to be in satisfaction of six tests provided in the NPPF; and that is where the respondent (Miss Green - Planning Advisor) pinpointed paragraph 55 (see page 1, under heading *Environment Agency position*, third paragraph). I believe that the six tests or perhaps objectives being referred to are actually to be found in section 15, paragraph 170; which provides:

Conserving and enhancing the natural environment

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Of these, sub-paragraphs (a), (b), (d), and (e) are of direct pertinence to this planning proposal.

Further reading of the NPPF highlighted to me various other notable considerations within and which should be brought to light. Paragraphs: 84, 96, 108, 110, 180 and 193, I will quote from in full or in part in italics [underscores my emphasis], and with my comment supplied in standard text beneath.

Supporting a prosperous rural economy

84. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may not 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). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

No attempt has been made by the Applicant to improve access to the proposed site on foot or by bicycle. The Applicant in their Planning Statement Appendix Qa1 refers to the Landscape and Visual Impact Assessment (LVIA) and the comments made by the "Landscape Officer" pronouncing the visual impact as *high (adverse)* from the vantage point of pedestrians (see LVIA para 1.7). The Applicant refutes that rating of "high" by assertions in the unsuitability of the road for pedestrian usage and also misinforms the reader by saying there is no formal access to and from the canal at Hay Bridge on the Boddington Road – which access is commonly used by walkers, cyclists, canal maintenance contractors equipped with mowers, and sundry others. They argue that there is no need to consider non-vehicular usage of the road because it is neither suited nor purposed for anything other. (Furthermore, the local community will not be granted access to the proposed marina, except to rented marina moorings by a boat.)

Considering development proposals

108. *In assessing... specific applications for development, it should be ensured that:*

- a) ...
- b) *safe and suitable access to the site can be achieved for all users; and*
- c) *any significant impacts from the development on the transport network... or on highway safety, can be effectively mitigated to an acceptable degree.*

110. *... applications should:*

- a) *give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas...*
- b) ...
- c) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles... and respond to local character...*
- d) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) ...

A site visit in any mode of transport other than by boat or helicopter would reveal immediately the failings of the proposal regarding the above standards in policy. A few additional passing places on the single track road is an insufficient remedy against the hazards of this road with its acute bends and existing worrying numbers of users already intent, as indicated by their speed, on arriving before their departure. As a result, I anticipate that someone will be departing prematurely and tragically on Boddington Road.

open space and recreation

96. *... Planning policies should be based on robust and up-to-date assessment of the need for open space, sport and recreational facilities (including quantitative deficits or surpluses)... Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.*

Marinas located at nearby Fenny Compton and Cropredy are demonstrating from their large numbers of available mooring spaces, that there is not an existing need midway between the two. Too much commercial competition for moorings would result in further diminishing the business viability for the existing marina operators, who pay Canal & River Trust an annual rate (connection fee) for their total available berthage rather than their actual occupied berthage.

In my letter dated 09.11.2020, I proposed a model to assess the need factor in what I called the *Oxford Canal Impact Assessment* (see letter 09.11.2020, para 2.1). Such a condition as that is essential to prevent a potential oversupply and congestion from boat movements with an excess demand on the infrastructure in this area and its resulting loss of enjoyment otherwise felt by many in contrast with the potential benefit to be gained by only a few. Some developers are wise, others otherwise.

Ground conditions and pollution

180. *Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

It is not possible to (a) put a mute button on heavy construction plant or maintenance equipment at the dock and thereby (b) protect the present tranquility enjoyed by Claydon residents and the general populace, (c) add light to the dark landscape area without then altering its intrinsic nature to that of a *formerly dark landscape*. With regard to proposed lighting, the Applicant states in the Planning Statement at paragraph 2.59 that there will be one bollard per

four moorings on the jetties, lights either side of the doors of the clubhouse (which would be prominent at that elevation) and various lights around the car park also. If we were discussing Blackpool as the proposed site location, there would be little to say on this. Many respondents have discussed this and other issues regarding pollution adequately, which should dispel notions that these irritants produced by the proposed marina would be tolerated.

Considering potential impacts

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

CDC's **Local Plan Policy ESD17** concerns the Oxford Canal and begins by saying:

The Oxford Canal is an iconic historic structure running the length of the district through the valley of the River Cherwell, and is of historic, ecological and recreational significance. Following an appraisal, the length of the canal through Cherwell District was designated as a Conservation Area in October 2012.

The Oxford Canal is an asset, which no-one disputes. It should therefore receive critical attention towards matters which threaten its desirable features and which have accorded the canal its conservation status. I reiterate that an assessment, as referred to above in my comment for NPPF paragraph 96, must be undertaken or the question of how else the precept within paragraph 193 of the Framework can be properly achieved arises regarding a decision over this planning application.

Conclusion

Without a site visit there can be no granting of planning permission for Claydon Marina. With a site visit, there would be no grant of planning permission. Take your pick.

This planning application is not for a small innocuous development like that of the ubiquitous conservatory extension of an urban dwelling and which can therefore be dealt with remotely!

Yours sincerely,

Iain Kirkpatrick

CC Councillor Phil Chapman
and
Richard Parry (CEO for CRT)