

PLANNING COMMITTEE – 23 JUNE 2022

PART I - DELEGATED

8. **22/0284/FUL – Construction of two timber outbuildings at BURY LAKE YOUNG MARINERS, FROGMORE LANE, WD3 1NB (DCES)**

Parish: Batchworth Community Council
Expiry of Statutory Period: 04 May 2022

Ward: Rickmansworth Town
Case Officer: Lauren Edwards-Clewley

Recommendation: That Planning Permission be Refused.

Reason for consideration by the Committee: TRDC has an interest in the application site. The land is owned by TRDC and leased by Bury Lake Young Mariners (BLYM).

1 Relevant Planning History

- 1.1 05/0105/FUL – Re-surfacing of car park and boat rigging area, erection of new steel storage unit and spoil mound to be seeded – Permitted March 2005.
- 1.2 15/1650/FUL - Construction of replacement clubhouse, boat storage and workshop; and landscaping works including pontoon, jetties and shipway, provision of hardstanding, entrance sign and removal of trees – Permitted October 2015, not implemented.
- 1.3 16/1601/DIS - Discharge of Conditions 3 (Materials), 4 (Boundary Treatment), 5 (Phasing), 6 (Sedum Roof Maintenance), 7 (Landscaping), 8 (Landscape Management Plan), 9 (Tree Protection Scheme), 10 (Flood Risk Assessment), 11 (Ecological Mitigation), 13 (Surface Water Drainage) pursuant to planning permission 15/1650/FUL- Determined
- 1.4 16/2153/DIS - Discharge of condition 7 (soft landscaping), 8 (landscape management plan), 9 (tree protection scheme) and 11 (ecological mitigation and enhancement plan) pursuant to planning permission 15/1650/FUL – Determined
- 1.5 17/1870/FUL- Variation of conditions 2 (Approved Plans) and 5 (Phasing) of planning permission 15/1650/FUL to amend phasing and remove the 'Dry Zone'- Permitted and implemented
- 1.6 18/0884/DIS - Discharge of Condition 7 (Hard and Soft Landscaping) pursuant to planning permission 17/1870/FUL – Determined

2 Description of Application Site

- 2.1 The application site is part of the Aquadrome, Rickmansworth. The Aquadrome is a Local Wildlife Site and part of the site is also designated as a Local Nature Reserve and publically accessible open space. The Aquadrome is served by a public car park accessed from Frogmore Lane. A series of footpaths and cycle routes run through the Aquadrome and alongside the Grand Union Canal and its towpath form the southern boundary to the Aquadrome.
- 2.2 The application site has an area of approximately 0.85ha and relates to an area to the west of the Aquadrome adjacent to the southern corner of Bury Lake. The site is occupied by Bury Lake Young Mariners, Nomad Kayak Club and Colne Valley Special Sailors, (collectively referred to as BLYM), as a water-based recreation centre which includes sailing, windsurfing and canoeing. BLYM is a charity run by volunteers, and has been based at the site for over 30 years. The site currently contains 2 main clubhouse buildings, a number of existing sheds and storage containers, areas of boat storage and slipways and jetties to provide access to the water.

2.3 The site is within the Metropolitan Green Belt and the northern part of the site includes areas of flood zones 2, 3a and 3b.

3 Description of Proposed Development

3.1 The proposal includes the construction of two timber outbuildings.

3.2 One building would be 6m in width and 4m in depth with a mono pitched roof. It would have a maximum height of 4.5m and an eaves height of 2.3m.

3.3 The second building would have a width of 5.2m and a depth of 3.4m. It would have a mono pitched roof with a maximum height of 2.4m and an eaves height of 2.1m.

3.4 The smaller building would be sited 9m west of the main boat house and the larger building sited to its west (12m from the boat house).

3.5 The proposed buildings will be akin to log cabin style outbuildings. The larger of the two would be 'grey blue' in colour the other 'light grey'. The applicant has confirmed that the cabins are to be constructed of Finnish Spruce Timber.

3.6 The applicant has confirmed that the 'storage cabin' will be used to hold equipment associated with the activities offered by CVSS (Colne Valley Special Sailors). This includes items such as buoyancy aids, sails, paddles and slings for hoists.

3.7 The 'base cabin' will be the operational base for the activities. It will be used as a place to operate from during adverse weather and to hold personal items whilst sailors are in the water. It will also operate as a point to carry out presentations such as giving instructions and to meet clients. The building will also act as an office for administration required in association with the CVSS activities.

4 Consultation

4.1 Statutory Consultation

4.1.1 Batchworth Community Council: [No objection]

Batchworth Community Council has no objection to this application.

4.1.2 Herts and Middlesex Wildlife Trust: No response received.

4.1.3 Herts Ecology: [No objection]

Bury Lake itself and some of the surrounding habitat is designated as a statutory Local Nature Reserve (LNR) and non-statutory Local Wildlife Site (LWS). Part of the area is also a Herts & Middlesex Wildlife Trust (HMWT) reserve.

The proposal site is set back from the lake on amenity grass, close to the larger Rickmansworth Sailing Club boathouse and outdoor boat storage area. The cabins will replace structures (tent and horsebox – now gone) previously used by the CVSS charity for storage.

I do not anticipate any adverse effects from this proposal on the important habitats or designated sites in the vicinity. I do not consider any ecological surveys are necessary nor there to be any ecological constraints with this proposal.

4.1.4 Canal and River Trust: [Had no comment to make]

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is that the Trust has no comment to make on the proposal.

4.1.5 Environment Agency: [Objection in absence of Flood Risk Assessment]

Please find attached our response to planning application 22/0284/FUL. In the absence of a Flood Risk Assessment (FRA), we object to this application and recommend refusal of planning permission until a satisfactory FRA has been submitted.

Further clarification was sought by the case officer from the Environment Agency who advised:

Minor development includes non-residential extensions below 250 square meters, development that doesn't increase the size of a building (and doesn't create any new households) and householder development. For this site they're proposing the construction of two new outbuildings, so isn't an extension and therefore doesn't fit the definition of minor development. It instead falls into the non-major category.

The application is water compatible and so is considered fine in principal, but we would continue to object without an FRA.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 3

4.2.2 No of responses received: 1 objection

4.2.3 Site Notice: Expired 24.04.2022 Press notice: Not required

4.2.4 Summary of Responses:

- No trees have been marked on the plan;
- An ash tree is adjacent to the buildings;
- Flood event has been experience in last 5 years- building should be on higher ground;
- BLYM already has ample accommodation and storage to serve the needs of the organisation.

5 Reason for Delay

5.1 Requirement for an alteration to the Certificate signed within the application form.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework".

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP1, CP1, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2, DM4, DM6, DM8, DM9, DM11, DM13 and Appendix 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. Policy SA5 is relevant.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Green Belt

7.1.1 The application site is within the Metropolitan Green Belt. The National Planning Policy Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belt are their openness and their permanence.

7.1.2 The purposes of including land within the Green Belt as set out in the National Planning Policy Framework are:

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

- 7.1.3 The Framework further advises that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 7.1.4 The requirements of the NPPF are considered to reflect adopted policies of both the Three Rivers District Council Core Strategy and Local Plan. Policy CP11 of the Core Strategy (adopted October 2011) states that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt. Inappropriate development is, by definition, harmful to the openness of the Metropolitan Green Belt. Policy DM2 of the Development Management Policies LDD (adopted July 2013) replicates Government guidance contained in the NPPF.
- 7.1.5 Paragraph 149 of the NPPF states that LPAs should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;**
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages;
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority
- 7.1.6 The buildings would be used by the Colne Valley Special Sailors within the existing BLYM site and would therefore be used in connection with the existing outdoor sport and recreational use of the site and wider Aquadrome. The development would therefore be considered to fall within exception (b) of paragraph 149, the 'provision of appropriate facilities for outdoor sport and recreation' provided that it preserves openness and does not conflict with the purposes of including land within the Green Belt. The proposed outbuildings would be single storey and would not be excessive in height (both under 3m). The buildings would be sited forward of the two main boat houses however would be read within the context of the existing structures and storage buildings associated with the use of BLYM. As such the proposed buildings would not result in harm to openness.
- 7.1.7 As such the proposal is considered an appropriate form of development within the Green Belt by virtue of their compliance with the exception set out within (b) of paragraph 149 of

the NPPF and thus does not have an impact on openness. By virtue of their location the proposed buildings would also not conflict with the purposes of Green Belt land as set out within the NPPF. The development therefore complies with Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

7.2 Impact on Character and Street Scene

7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

7.2.2 Some views would be had of the proposed buildings from within the Aquadrome however the proposed buildings would be single storey in nature, modest in height and would be constructed in a 'log cabin' style, constructed in timber. Therefore the buildings would be constructed of an appropriate material which responds to the character of the immediate vicinity which is heavily treed and verdant. The use of grey timber would also sympathetically respond to the main 'BLYM' building. The proposed buildings would appear subordinate in scale to that of the two larger existing buildings and therefore would assimilate with the existing structures on site. As such by virtue of their sympathetic style, scale and design would appear as sympathetic additions to the site.

7.2.3 It is noted that there are already two main boat houses along with a collection of stores on the parcel of land leased by BLYM however by virtue of their relatively small scale in the context of the site it is not considered that the additional buildings would give rise to an excessive proliferation of structures.

7.3 Impact on amenity of neighbours

7.3.1 The proposed buildings would be several hundred metres from any residential property and as such would not result in harm in this respect.

7.4 Wildlife and Biodiversity

7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.

7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.4.3 The application has been submitted with a Biodiversity Checklist and Herts Ecology have confirmed they do not consider that the proposed development would necessitate any further surveys.

7.5 Trees and Landscaping

- 7.5.1 Policy DM6 of the Development Management Policies document sets out that development proposals should seek to retain trees and other landscape and nature conservation features and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards. Planning permission will be refused for development resulting in the loss or deterioration of protected woodland, trees or hedgerows unless conditions can be imposed to secure their protection. Development likely to result in future requests for significant topping, lopping or felling will be refused.
- 7.5.2 Whilst there are no tree on site which are afforded TPO designation the proposed buildings would be located relatively close to an Ash Tree. No details have been submitted with the application to confirm the location of this tree in relation to the proposed buildings nor have any further details been provided.
- 7.5.3 The proposed buildings are to be laid on concrete slabs. Even if these slabs do not result in any direct severance of the tree's root system there is potential for undue compaction of earth in the RPA resulting in harm to the long term health of the tree. As such an AIA and method statement would be required by condition (in the event of an approval) to confirm the proposal would not result in harm to the adjacent tree. The applicant will also be reminded by way of an informative that any works required to the on-site trees may require consent under separate cover from TRDC as land owner.
- 7.6 Highways, Access and Parking
- 7.6.1 The proposal would not result in the increase of land within the current use, only buildings on the land in the same use. As such there would be no increase in the requirement for parking provision or loss of existing spaces.
- 7.7 Flood Risk and Drainage
- 7.7.1 Core Strategy Policy CP1 sets out that development should avoid areas at risk from flooding and should minimise flood risk through the use of sustainable drainage systems. This Policy also advises that there is a need to manage and reduce risk of and from pollution in relation to quality of land, air and water and in dealing with land contamination.
- 7.7.2 Policy DM8 of the Development Management Policies document sets out that development will only be permitted where it would not be subject to unacceptable risk of flooding and would not unacceptably exacerbate risk of flooding elsewhere and that development must protect the quantity and quality of surface and groundwater resources from aquatic pollution with sufficient surface water drainage. Policy DM9 sets out that permission will not be granted for development which would or could give rise to polluting emissions to land, air and/or water, and will only be granted for development on sites where contamination may be an issue where the Council is satisfied that there will be no threat to the health of future users or occupiers of the site or neighbouring land and there will be no adverse impact on the quality of local groundwater or surface water quality.
- 7.7.3 The application site is located partly within Flood Zones 1, 2, 3a and 3b. The smaller of the two buildings (storage cabin) would be sited in Flood Zone 1 therefore a Flood Risk Assessment (FRA) would not be required for this building, however, the larger of the two buildings (base cabin) is within Flood Zone 3 (areas most likely to flood) which necessitates the requirement for an FRA. The Environment Agency (EA) have confirmed that the proposal would be 'water compatible development' and that water compatible development includes 'water-based recreation' and outdoor sports and recreation and essential facilities such as changes rooms but does not include sleeping accommodation. However, notwithstanding this, they have confirmed that a FRA is required in order for them to confirm they have no objection.

- 7.7.4 During the application Officers' requested that a FRA be submitted, however, this has not been received. Additionally Officers have made alternative suggestions in order to overcome the need for a FRA by relocating the larger building (base cabin) to within Flood Zone 1. However the applicant has advised this is not a feasible option and has asked the LPA to determine the application on the basis of the originally submitted layout. Therefore the situation remains that an FRA is required for the larger outbuilding (base cabin) and in the absence of this the Environment Agency, as a statutory consultee, are not able to confirm they have no objection to the proposal.
- 7.7.5 Officers appreciate that the application is being submitted on behalf of CVSS which is a charitable organisation and that obtaining an FRA would have resource implications for them. However the LPA cannot dismiss the comments of the EA as statutory consultee and Flood Risk remains a material consideration.
- 7.7.6 In summary, in the absence of an FRA it has not been demonstrated that the proposed development would not have an adverse impact on flooding within Flood Zone 3. Therefore necessary consideration and appropriate mitigation cannot be given to the impact of the development contrary to Policies CP1 of the Core Strategy (adopted October 2011), Policy DM8 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021)

7.8 Refuse and Recycling

- 7.8.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:
- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
 - ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
 - iii) There would be no obstruction of pedestrian, cyclists or driver site lines
- 7.8.2 The application form confirms that the buildings will use the existing waste collection arrangements of BLYM.

8 **Recommendation**

- 8.1 That PLANNING PERMISSION BE REFUSED for the following reason:

R1 In the absence of a Flood Risk Assessment, it has not been demonstrated that the proposed development would not have an adverse impact on flooding within Flood Zone 3. Therefore necessary consideration and appropriate mitigation cannot be given to the impact of the development contrary to Policies CP1 of the Core Strategy (adopted October 2011), Policy DM8 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

Informative:

I1 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.