



Appeal Decision

Site visit made on 21 February 2020

by Melvyn Middleton BA(Econ), DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing Communities and Local Government

Decision date: 30 April 2020

Appeal Ref: APP/L3055/W/19/3229935

Redhill Marina, Redhill Lock, Ratcliffe on Soar, Nottinghamshire, NG11 0BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Morley against the decision of Nottinghamshire County Council.
 - The application Ref 8/16/02736/CMA, dated 2 September 2016, was refused by notice dated 11 December 2018.
 - The development proposed is the construction of an inland leisure marina, associated ancillary building, infrastructure, car parking and landscaping with incidental mineral extraction.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The proposal involves development in a detached field that is located within a large meander of the river Soar, a short distance to the north of the A453. It also includes a new access track that links the proposal field to an existing access track. This connects an existing boat servicing complex at Redhill Farm to a roundabout on the constructed highway, adjacent to East Midlands Parkway railway station. The Highway Authority does not object to the means of access and I consider it to be acceptable.

3. Reason for refusal 2 refers to the proposal's conflict with the safeguarded route for High Speed Rail Two Phase 2b (HS2b). This proposal would cross the site from south-west to north-east on a viaduct. The route has been formally safeguarded by the Secretary of State for Transport¹. HS2 Ltd, following consultation, has objected to the proposal. Consequently, any decision to allow this appeal would need to be referred to that Secretary of State, giving him the opportunity to issue a direction to refuse planning permission.

4. I have been referred to a previous similar appeal² on a larger site that was determined in January 2015. That proposal, which was dismissed, included the appeal site and other land to the north-east and would have provided a 533-berth marina with associated infrastructure on a 20.14 hectares site.³ Whilst of a smaller size⁴, there are many similarities between these appeals. I have nevertheless determined this appeal, which in size at least is a different proposal, on its own

¹ June 2019, replacing a previous direction of September 2017, which replaced one of November 2016.

² Appeal Ref: APP/L3055/A/13/2194755.

³ The current proposal would provide 290 berths on 13.33 hectares.

⁴ About 2/3.

merits and with reference to all of the information that has been submitted with this appeal. However, the previous appeal decision is a part of that information and as such it is a material consideration in the determination of this appeal.

5. The previous appeal involved the removal of boats, currently moored along the riverbank adjacent to the appeal site and their relocation, along with other paraphernalia, within the new marina. The permanent residential use of some of the boats was to be phased out over time. That appeal was accompanied by a signed planning obligation that would have legally ensured the achievement of these and other benefits, concerning the routing of commercial and mineral extraction traffic, as well as the provision of jobs for local people. That Inspector acknowledged that as a result of the removal of moored boats from the river, there would be benefits to the riverside visual amenity, ecology and to safety in the context of flood-risk and navigation.

6. The current proposal also indicated that riverbank moorings and their associated paraphernalia would be removed from a 1.3km stretch of the river. However, no legal agreement to secure these benefits accompanies this appeal and consequently only very limited weight can be attached to these potential benefits. I consequently do not consider them further.

7. The application was accompanied by an Environmental Impact Assessment. The Environmental Statement (ES) was updated and supplemented at both the application and appeal stages. I have taken the environmental information contained in the ES into account when determining this appeal

Planning Policy

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan (DP), unless material considerations indicate otherwise. The statutory DP for the area, in which the appeal site lies, now includes the Rushcliffe Local Plan (LP) and the Nottinghamshire Minerals Local Plan (MLP), which was adopted in 2005. The LP includes a Part 1: - Core Strategy (CS) that was adopted in 2014 and a Part 2: - Land and Planning Policies (LPP), which was adopted in 2019.

9. The latter replaces the saved policies from the 1996 Rushcliffe Borough Local Plan that were used by the County Council in its decision to refuse the application. Policies in the non-statutory Rushcliffe Local Plan have also been superseded and are no longer a material consideration. In determining this appeal, I have only referred to the statutory DP policies contained in the currently adopted plans.

10. The National Planning Policy Framework 2019 (Framework) at paragraph (para.) 213 says that existing DP policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework. I consider all of the ones referred to in this decision to be fully consistent with the relevant parts of the Framework. There is also no dispute that these policies are up to date in the context of para. 213 of that document or that they should all be given full weight.

11. LPP Policy 2, requires applications for development in the Green Belt (GB) to be determined in accordance with the Framework. LPP Policy 17 indicates what is expected in applications on sites where there is a risk of flooding. It also defers to

the guidance in the Framework in the context of the sequential and exceptional tests. CS Policy 17 seeks to protect biodiversity and again defers to the Framework in the context of protecting designated sites.

Main Issues

12. The mineral extraction and related operations would not be inappropriate development in the GB, providing that they preserved its openness and did not conflict with the purposes of including land within it. Although boating could be considered as outdoor recreation, and a marina would provide facilities to support this activity, it is accepted that the extent and nature of the proposal would not preserve the GB's openness and it would conflict with a purpose of including land within it. The parties consequently agree that the construction of a marina would represent inappropriate development in the GB, as defined in the Framework. I concur with that position. It is therefore contrary to LPP Policy 2.

13. In that context I consider the main issues to be:

- a) The effect on the openness of the GB;
- b) The effect on the relevant purposes of the GB;
- c) The effect on the character and appearance of the countryside;
- d) The effect on flooding;
- e) The effect on archaeology;
- f) The effect on ecology;
- g) The effect on the HS2b rail proposal;
- h) Any other harm;
- i) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

14. The site lies in the GB. National guidance in the Framework says at para. 143 that inappropriate development is by definition harmful to the GB and that such development should not be approved, except in very special circumstances.

15. The Framework goes on to say that when considering planning applications, decision makers should ensure that substantial weight is given to any harm to the GB. Very special circumstances will not exist unless the potential harm to the GB by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Openness

16. Para. 133 of the Framework points out that the fundamental aim of GB policy is to keep land permanently open and that openness and permanence are the essential characteristic of GBs. The proposal would construct a facilities-building, jetties for mooring boats and other facilities to service boats using the river and canal network. When in operation, the facility would contain parked

boats as well as parked vehicles. All of this would impinge upon the openness of this part of the GB to a significant degree.

17. The proposal would effectively result in the introduction of development, with its associated paraphernalia, onto what is currently a large open field. As a result, and although the building, other structures and vehicles would be of modest height, there would be a considerable reduction in both spatial and visual openness on the site. The Framework regards openness as an essential characteristic of GBs. There is limited vegetative cover on the periphery and in the vicinity of the site, with consequent numerous views into and across the site from the nearby roads and public rights of way. This endows users of this movement network an appreciation of its openness. Whilst the Appellant has proposed some landscaping within the site and particularly along the northern and north-eastern boundaries, this would not screen the development from the towpath to the south, south-east and west or from the elevated A453 and other similarly located vantage points in the area.

18. There would inevitably be a permanent change to the spatial openness of the site, which would also be visually perceived by passers-by in the form of the infrastructure and parked boats and vehicles. Additionally, there would be paved roads and footpaths with lighting. The overall perception, from the adjacent roads and public footpaths, would be one of urban development, in sharp contrast to the remaining open countryside that would surround the site.

19. The scale of the built development, together with its access, parking and other hard landscaped areas, leading to the associated reduction in openness, would also be apparent to local residents and visitors to the appeal site, as well as to the occupiers of and visitors to the existing nearby boat servicing complex and some of the adjacent dwellings.

20. Overall, as well as the harm to spatial openness, there would be harm to visual openness. I conclude that there would be a considerable loss of both spatial and visual openness. The spatial and visual harm to openness would constitute significant additional harm to the GB.

Purposes of the Green Belt

21. The proposal would impact on one of the five purposes of GBs that are set out in para. 134 of the Framework, namely, to assist in safeguarding the countryside from encroachment.

22. The development would be on undeveloped land that is currently agricultural land, outside of a defined settlement and in the open countryside. Despite the extent of existing development within the area, the site is not spatially contained by other development, indeed it is detached from the existing boat servicing complex and would be free standing. Para. 133 of the Framework points out that the Government attaches great importance to GBs and goes on to say that the fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open. The nature of the siting of this proposal is that it would noticeably extend the urban sprawl within this countryside area that already results from urban development south of Trent Lock, considerably further to the south.

23. The proposal would develop land that is currently open countryside and enjoyed by users of the tow path and the other rights of way in the area, as well as by users of the river. The development would inevitably result in further

encroachment into this countryside, contrary to the third of the Framework's defined purposes of the GB.

24. Whilst it can be argued that much development permitted in the GB encroaches into the countryside, the harm to the GB varies according to the circumstances of individual sites. This is especially so in the context of visual openness, which is an essential characteristic of GBs and important to a consideration of the third purpose. In my judgement, whilst not as critical as some sites to the countryside safeguarding purpose, this site does play a role in maintaining the openness of the countryside for public enjoyment to the south and west of the existing Redhill Marina and there would be much harm to this area of GB countryside if the development occurred.

25. Taking account of the above, I conclude that as well as the substantial harm caused by inappropriateness, the proposal would also cause significant harm to the GB's openness and to its countryside safeguarding purpose.

Character and appearance

26. The harm to the GB's openness and the encroachment into the open countryside, discussed above, should be distinguished from other landscape and visual effects. This is a pastoral landscape containing open fields bounded by maintained hedges that are largely composed of hawthorn but also containing numerous individual tree specimens. There are also some small copses. Nevertheless, to the west of the appeal site there are extensive views across the Trent/Soar floodplain. The appeal proposal would remove an element of this landscape, replacing it with built development and extensive moorings and hard surfaces. No amount of mitigation through planting and vegetative screening could avoid this. The proposal would represent a total change in the site's character from one of a riverside meadow to built development. The end product would in no way represent or contribute towards the attributes of the character area.

27. In a visual context the sand and gravel extraction would be undoubtedly harmful, with the inevitable stockpiles of excavated material and imported machinery being clearly intrusive from external viewpoints. As a result, there would be significant harm. However, this would only be temporary. Nevertheless, the subsequent implementation of the marina proposal would maintain the landscape change and would also be harmful. Although natural, the nature of the landscaping proposed, much of it deliberately trying to screen the development, would be alien to that traditionally found in this area and could not successfully mitigate for the loss of the river meadows, even if it eventually began to screen the development from some of the wider views during the summer months.

28. The current undeveloped nature of the site, with its pastoral fields, surrounded by broken hedges and interspersed with individual and naturalistic groups of trees, typically represents the characteristics of the Soar Valley Farmlands Landscape character area of which this site forms a part. This is clearly observed from the elevated highways and the park and ride site. However, even from the flood defences along the tow path there are extensive views across a similar landscape to the west. Consequently, the site's contribution to the landscape and its impact on it is not localised.

29. I note the presence of the power station and the railway station with its car park to the east, as well as the Appellant's existing operations and other development to the north. However, the power station and railway station are

both located on more undulating terrain in another character area or on the very fringe of the flood plain, whereas the appeal site is an integral part of the water meadows that flank the river. The existence of the nearby urban influences, including the urban sprawl on the eastern side of the river Soar, south of Trent Lock, gives added weight to the value of the appeal site as an open meadow that contributes to the open character of the flood plain to its west and the rural experience of people travelling down this part of the river corridor.

30. The site is currently a part of a landscape of good quality and it makes a positive contribution to its character area. Its replacement with a marina, following sand and gravel extraction, at least in the short term, could be nothing other than a significant change that would be alien to this character. This is despite the existing presence of development in the area.

31. Because of its failure to complement the vegetative context of fields bounded by hedges, the proposed landscaping would not mitigate the harm but would introduce an alien form of planting. That apart, there would also be and remain some adverse impacts on the current undeveloped views from the roads and footpaths around and across the site. Consequently, the visual impact would always be adverse. Whilst I do not consider these negative aspects of the development to be sufficient to dismiss the appeal out right, there nevertheless would be harm and this harm should be weighed in the balance.

32. The Appellant undertook a Landscape and Visual Impact Assessment. This concluded that the proposal's impact, on the character of the landscape character area, would be slight to medium adverse, the level of impact depending upon the success of the proposed mitigation. However, the proposal would not be consistent with the requirements of two of the landscape policy zone actions, firstly to conserve the pastoral farming along the floodplain and secondly to conserve the infrequent nature of built form on the lowest ground. Additionally, and as referred to above, the proposed planting has been largely designed to conceal the development rather than to complement the landscape and in consequence it would not be typical of the natural distribution of trees and shrubs within this landscape. I therefore consider the long-term harm to the landscape character would be at least medium adverse.

33. The Appellant considers that the visual impact from footpaths around the site would be medium adverse initially, reducing to slight adverse after 15 years. I disagree. On completion of the development, even with a successful landscaping scheme, the marina would be clearly visible from the tow path and other viewpoints in the area and would abruptly change the pastoral scene that one currently experiences when traversing this area. As discussed above, this adverse visual effect on the landscape would be compounded by the close proximity of the urban influences of the power station, railway station, existing boat servicing complex and the urban development around it and to its north. In this context, and as recognised by the previous Inspector, the value of these water meadows to the overall flood plain landscape is important. The visual impact would remain as at least medium adverse even after 15 years.

34. Additionally, these considerations ignore the significant character and visual harm to this landscape that would occur in the short term whilst the mineral extraction was implemented.

35. Overall, I consider that there would be moderate harm to the local landscape as a result of the implementation of the proposal and that this should count as

other harm to be weighed against the proposal. The proposed development would harm the character and appearance of the area, contrary to CS Policy 16, LPP Policies 34 and 35, Policies M3.3 and M3.22 of the MLP and para. 127(c) of the Framework.

Flooding

36. LP policy 17 says that development proposals in areas of flood risk will only be considered when accompanied by a site-specific Flood Risk Assessment (FRA). Proposals will be expected to include mitigation measures, which protect the site and manage any residual flood risk, such as flood resistance/resilience measures and the provision of safe access and escape routes. Development should also not increase the risk of flooding on the site or elsewhere.

37. The site is located within flood zone 3. The evidence of recent flooding, clearly visible at my site visit, suggests that most of the site is within flood zone 3a, the functional flood plain. There are clearly potential risks to property and lives in such a location. Additionally, the proposal involves works to the river, in order to connect the marina to it, and these would impact upon the existing flood defence embankment and access.

38. The Framework says at para. 163 that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. It goes on to say that a site-specific flood risk assessment should be provided for all development in Flood Zone 3. Development should only be allowed in areas at risk of flooding where, in the light of the assessment, it can be demonstrated that the development is appropriately flood resistant and resilient, the residual risk can be safely managed, and safe access and escape routes can be included where appropriate.

39. The proposal is accompanied by a flood risk assessment, but the Environment Agency (EA) has nevertheless objected to the proposal. The modelling indicates that in a 1 in 100 year + climate change flood event, the whole site would be flooded to a depth of between 1m and 1.6m and the access road would be cut off. More frequent events could lead to flooding on the site but to a lesser extent. Although the Appellant maintains that the Environment Agency objection was incorrect and that upon further clarification with its hydrologist it has been removed, the EA's latest communication confirms that it has maintained its objection to the proposal. In its view the flood risk assessment is inadequate, in particular and despite and because of the proposed mitigation, the impacts on the wider area, particularly flooding elsewhere, have not been properly assessed.

40. Unlike the previous scheme, the one before me has no proposals to remove the permanent boat residencies from the river, some of which appear to have recently flooded and there are other terrestrial residential properties elsewhere in the area that could be subject to flooding. Furthermore, the overall ramifications of the changes to the flood defence embankment and the level changes to accommodate access tracks are far from clear.

41. The Framework says that a sequential test should be used to steer development to locations with a lower risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. It goes on to say that the strategic flood risk assessment will provide the basis for applying this test.

42. Whilst not included in the FRA, the Appellant's Alternative Sites Appraisal did look at alternative sites. However, among other things, this found that some alternative sites were wholly or partially outside of flood zone 3. The FRA should consequently have included a more robust sequential test and if necessary an exceptions test, undertaken to demonstrate why, in these circumstances, the appeal site is an appropriate location for a marina. However, these were not done.

43. Additionally, the Appellant has not demonstrated that the proposal would not lead to increased flooding elsewhere or that it would provide a safe environment for persons, particularly those residing in boats or dwellings close to the site, in times of a severe flood. It is therefore contrary to MLP Policies M3.1 and M3.9 and LPP Policy 17 as well as the Framework at paras. 155 and 163. The Appellant has not demonstrated that the development would be appropriately flood resistant and resilient such that the proposal would provide a safe environment in times of severe flooding or not be a cause of additional flooding in the wider area. I give significant weight to the potential harm that could be caused.

Archaeology

44. The site is close to the Roman shrine at Redhill, which is a scheduled Ancient Monument, as well as to a site of Romano-British occupation, between the appeal site and the Midland Railway. Consequently, it has potential to contain archaeological remains that could be destroyed by the proposal.

45. At para. 197 the Framework says that the effect on the significance of a non-designated heritage asset should be taken into account when determining applications. It goes on to say that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

46. Whilst para. 194 points out that any harm or loss to a designated heritage asset should require clear and convincing justification, the footnote says that non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should also be considered subject to the policies for designated heritage assets. Furthermore, at para. 193 the Framework says that when considering the impact of development on the significance of a heritage asset, great weight should be given to the asset's conservation.

47. At para. 189 the Framework requires an applicant to describe the significance of any heritage asset, the level of detail being proportionate to the asset's importance. The assessment needs to be sufficient to understand the potential impact of the proposal on the asset's significance and where there is archaeological interest an appropriate desk-based assessment should be submitted.

48. An archaeological field evaluation, undertaken in 2007, has been submitted but this has become outdated as a result of improvements in archaeological techniques, particularly concerning wetlands, during the intervening years and including since the beginning of 2015, when the last appeal was considered. However, more fundamentally, this field evaluation concentrated on the historically "dry" land to the east of the appeal site and not the "wetlands" that comprise the appeal site. In fact, the report acknowledges that the trenching programme carried out, was not designed to map the substantial paleochannel deposits underneath the appeal site.

49. Historic England is of the view that the site has at least regionally important deposits and potentially nationally important remains. The excavation and dewatering could quite easily destroy remains and depending upon their location, the preservation of appropriate remains in situ may not be practical without changes to the mineral extraction proposals and the marina's layout. In the absence of an up to date assessment of the likely extent and importance of archaeological remains under this site, I have to take a cautious approach. I find that there is potential for archaeological remains of national significance to be found under this site.

50. MLP Policy M3.24 says that planning permission will not be granted for minerals development, which would destroy or degrade nationally important archaeological remains and their setting. Planning permission will only be granted for development that would affect archaeological remains of less than national importance. LPP Policy 29 requires development proposals that affect sites of known or potential archaeological interest, to be accompanied by an appropriate archaeological assessment. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.

51. The assessment submitted by the Appellant, which predates current local and national policy and guidance on this subject, does not enable a full understanding of the nature, extent and significance of the remains that could be under this site. It is therefore inadequate. The proposal is contrary to LPP Policy 29, potentially contrary to MLP Policy M3.24 and not in accordance with the provisions of Section 16 of the Framework. Although a smaller site than that considered in 2015, that consideration was five years ago. There is the potential for archaeological remains to exist under this appeal site and no adequate assessment through which this could be better understood is before me. I consider that this potential harm should be accorded significant weight against the proposal.

Ecology

52. At para. 175a) the Framework says that if significant harm to biodiversity, resulting from a development, cannot be avoided, adequately mitigated or as a last resort compensated for, then planning permission should be refused. In order to make that judgement it is necessary for the decision maker to have a comprehensive set of information about existing biodiversity in the area, the likely impact of the development on that biodiversity and proposed mitigation or compensation measures.

53. CS Policy 17 says that development on or affecting other non-designated sites or wildlife corridors, with biodiversity value, will only be permitted where it can be demonstrated that there is an overriding need for the development and that adequate mitigation measures are put in place. With the same caveat, MLP Policy M3.17 says that planning permission will not be given for minerals development which will adversely affect the integrity or continuity of habitats or features identified in the Nottinghamshire Local Biodiversity Action plan.

54. This part of the River Soar is designated as a Local Wildlife Site (LWS) and Lockington Marshes Site of Special Scientific Interest (SSSI) lies 130m to the west of the appeal site. However, the river Soar occupies some of this intervening distance and it acts as a barrier to some movement and interaction. Natural England has concluded that the proposal need not have an adverse impact on the SSSI.

55. As the previous Inspector pointed out, during the mineral extraction and the subsequent marina construction stages, the effects on local wildlife would be considerable. Much of the site would be excavated and the surface vegetation and habitats in these areas would disappear. The removal of the bankside moorings and the boats and associated clutter from the bankside and "Parlour" provided an opportunity to provide a new habitat covering some 2.75 ha in the previous scheme, with additional opportunities to improve the waterside environment. That Inspector saw this as an opportunity to mitigate the inevitable losses from the excavation and led him to find that overall and subject to planning conditions, the impact could be neutral. However, even with the described benefits, he pointed out that it was a difficult matter to balance.

56. There are no concrete proposals to remove the boats and other paraphernalia from the bankside before me and the parlour is outside of the site of this application. This reduces the opportunities to improve the LWS. Whilst there is land within the proposal that could be used for wildlife enhancement and planning conditions could be used to secure this, it is likely that different habitats would be created to some of those that would be lost. Given the much greater proximity of human activity, it is also far from certain that they would be successful to an extent that overall, they would replace the loss to existing ecology caused by the development. In such circumstances I consider that there could be some overall harm.

57. The Appellant submitted an Ecological Impact Assessment (EcIA) as a part of his ES. This looked at the types of habitat present and the potential notable and/or protected species that might be affected. The County Council, supported by the Appellant's ecologist who, in his assessment, recommended that additional species surveys be undertaken, considered this to be incomplete. Whilst some additional work was undertaken, it is still incomplete.

58. The Appellant's assessment includes a recommendation that further surveys be undertaken in relation to bat roosts and activity, wintering and breeding birds. Despite the submission of a draft revised EcIA with the appeal, there are still gaps in the ecological information. In particular, the bat surveys are not time-period complete, the Great Crested Newt surveys are not spatially complete and despite their acknowledged presence on the river, no targeted Otter survey was carried out. All of these are protected species, whose future in the context of the proposed development needs to be secured in one form or another.

59. Additionally, although it is accepted that the development would result in increased traffic on the river, the ramifications for wildlife have not been assessed. Without comprehensive baseline information, the impact of this proposal on biodiversity is an impossible task to assess, as is the potential for mitigation to remove or reduce the harm. I therefore consider that there could be significant harm to biodiversity as a result of the proposal and that despite the undoubted opportunities for unspecified mitigation within the site, the potential harm should attract moderate weight against the proposal. The proposal is contrary to CS Policy 17, MLP Policy M3.17 and para. 175 of the Framework.

High Speed 2

60. As discussed above (para. 3), the site is affected by the safeguarded route of the HS2b proposal. The framework at para. 104.c) says that sites and routes which could be critical in developing infrastructure to widen transport choice and realise opportunities for large scale development should be identified and protected

where there is robust evidence. HS2b is such a proposal, which would undoubtedly widen transport choice and is expected to create opportunities for large scale development along its route.

61. I note that when the Appellant began initiating his proposals to develop a marina in the vicinity of Redhill, more than a decade ago, there was no HS2b proposal. However, there was in January 2015 when the previous appeal was considered. That scheme had progressed further by the time the current application was submitted in September 2016. Contrary to the Appellant's assertion and unlike the position at the previous appeal, this is more than a notional proposal now, there is a detailed scheme and a safeguarding direction.

62. Since the publication of the Working Draft Environmental Statement in October 2018, the proposal has been in the form of a precise alignment, with a 14m high viaduct taking the line over the A453, the river Soar and the appeal site. There is also a link to the nearby Midland Main Line. The overall route design was refined in June 2019, but no changes were made to the proposed alignment or to the detailed design as it affects the appeal site.

63. The construction of a viaduct over a major road and a river will be a major engineering operation. The additional presence of a marina would undoubtedly further complicate the design and construction and inevitably increase the engineering considerations as well as the cost to the public purse. The national and regional benefits of HS2b are important and attract very significant weight. They would clearly outweigh the benefits of additional marina capacity alongside the river Soar, were the need for such facilities to be found to be undisputedly proven. The proposal would be harmful to the implementation of HS2b and is contrary to the advice in the Framework at para. 104.

Other harm

64. The site is in close proximity to East Midlands Airport (EMA). The development, including its landscaping has the potential to increase bird activity, which could increase the risk of bird strike to landing aircraft. Para. 205 of the Framework requires minerals development to prevent unacceptable adverse impacts on aviation safety.

65. The Appellant has submitted a Bird Management Plan which is considered to be unacceptable by the Safeguarding Officer at EMA. Nevertheless, I agree with the County Council that an acceptable bird management plan and appropriate detailed landscaping that mitigates against potential bird nuisance to aircraft, should be capable of resolution through appropriate conditions.

Other Considerations

Need for marina facilities

66. The Appellant undertook and submitted a survey of existing boat moorings along the waterways within a 20-mile radius of the site. The results showed that the local rivers and canals are already well served by such facilities and that these facilities were well used. Between 73% and 100% were in use at the time of the survey, which was at peak season in July/August 2015.

67. The County Council criticise the submission for the absence of data on the trends in the use of the waterway, as measured through licence holders and waiting lists for permanent moorings at marinas. It considers that there is no

specific evidence of a pressing unmet need. The Canal and River Trust also has reservations about the assessment. The County Council requested supplementary information to assist its assessment of the proposal, but this was not forthcoming.

68. An alternative site assessment was also undertaken. It considered 14 potential sites along the course of the river Soar to the south of the appeal site. Some of these have been incorrectly categorised as subject to GB designation when they are not. The assessment also did not analyse the comparative availability of local facilities such as shops, pubs etc. In the context of the criteria in LP Policy this is an important consideration.

69. There are however a number of submissions in support of the proposal, pointing out the ability of the nearby river Trent and a purpose designed marina to accommodate wider boats than could be accommodated on the narrower canals and their marinas. The ability to reach the site via the national principal road network alone is also a site advantage, in the context of transporting boats from one part of the waterways network to another.

70. Overall, I have come to a similar conclusion to the previous Inspector, who incidentally appears to have had different but more information before him. Again, the information before me is not sufficient to enable me to reach any overall meaningful conclusion about the overall need for the proposal. There is little evidence of an oversupply of moorings in general so that the construction of the marina would be unlikely to be harmful in this context. There is some evidence of demand but no convincing evidence of unmet need that would enable significant weight to be given to this consideration. I can therefore award no more than moderate weight to the provision of additional moorings and marina facilities.

Local economy

71. CS Policy 13 encourages new tourism facilities of an appropriate scale, but these should be focussed in or adjoining existing centres or through the improvement of existing development. Being free standing the appeal proposal does not meet these criteria.

72. LPP Policy 31 also supports the development of new tourism and leisure attractions where they are well connected to other tourist/leisure destinations and amenities and particularly by public transport, walking and cycling. Again, it directs new facilities towards existing centres but nevertheless, recognises that there may be instances where a proposal requires a rural location. Navigable river/canal locations are dictated by the courses of rivers and canals, much of which are through rural locations. The appeal proposal is in such a location and having a main line railway station within walking distance, it is well connected by public transport. However, the Policy requires tourism/leisure proposals to comply with other policies such as the GB and to adjoin existing facilities. The appeal site is free standing and the unavailability of alternative sites that better meet the policy requirements is far from clear.

73. Para. 83 of the Framework supports the sustainable growth of all businesses in rural areas and sustainable rural tourism and leisure developments, which respect the character of the countryside. I have found that this proposal would not respect the character of the countryside.

74. Nevertheless, the development of a marina would enhance local tourism and leisure and due to its waterway location, close to the confluence of the Soar, Trent

and Erewash, it is in a good position to attract trade from the waterways. This would benefit the existing businesses at the boat servicing complex and elsewhere in the locality, as well as at the new marina itself.

75. However, in this context the Appellant assesses the expected direct job growth at only 5.5 full time equivalents. Nevertheless, he expects significant additional expenditure to result from the proposal (£793,000 gross value added) with the majority outside of the marina. Whilst I note the County Council's caution and agree that because of the existing paucity of local facilities this would be more widely dispersed than if the marina was adjacent to a settlement with facilities, it would clearly be of benefit to the locality as a whole. Nevertheless, being isolated, the proposal is not in full accordance with the above policies and in the absence of comprehensive information about facilities in proximity to other potential sites, I consequently only give moderate weight to the benefits the proposal would bring to the local economy.

Mineral extraction

76. At para. 207 the Framework says that minerals planning authorities should prepare an annual local aggregate assessment to forecast future demand, based on a rolling average of ten years sales data and other relevant local information and to make provision for this in their mineral's plans. MLP Policy M6.2 seeks to achieve this. The Framework also says that they should maintain a land bank of at least seven years for sand and gravel. At para. 205 it says that great weight should be given to the benefits of mineral extraction, including to the economy.

77. However, MLP Policy M6.3 says that proposals for sand and gravel extraction outside of allocated areas will not be permitted unless it is evident that the existing reserves cannot sustain the landbank. Nevertheless, MLP Policy 14.1 does allow mineral extraction, if it is a necessary element of other development proposals on the same site, and if the impacts are acceptable and the duration short.

78. In October 2017, Nottinghamshire had over 17.5 million tonnes of allocated reserves, which at an average ten-year sales rate of 1.7 million tonnes p.a, represents more than a ten-year supply. Whilst the appeal site could generate an output of 0.117 million tonnes over a two-year period, that contribution would not be significant in the overall output circumstances or harmful to the plan's trajectory. Nevertheless, given the current over-provision, the MLP offers no support to the proposal, other than in the context of Policy 14.1.

79. The Appellant has referred me to a large housing development, proposed in the LP at Clifton, to the north-east of the appeal site along the A453 and points out that other development is to take place in the area. Whilst Clifton would be a convenient and sustainable location at which to use the sand and gravel resource from the appeal site, there is no information to demonstrate that the likely timings of the marina and housing developments would coincide or any evidence to suggest that the developers of the Clifton site or another site (assuming that they are known at this stage) would commit to using sand and gravel from the appeal site rather than from elsewhere.

80. The MLP and its emerging successor have allocated sites for sand and gravel extraction throughout the County in order to serve the different local markets. There is no evidence to suggest that there is an acute shortage in south-west Nottinghamshire at the present time that is leading to the unsustainable movement of the minerals from elsewhere. In the circumstances, the potential to extract

sand and gravel at this site, at the present time, does not support the proposed development of the marina. I give no weight to the potential for mineral extraction.

Other benefits

81. The Appellant has referred me to the support for the proposal given by Rushcliffe Borough Council, which considers the marina not to be inappropriate development and that it would not have an adverse impact upon GB openness. In the overall context I find this somewhat inconsistent, particularly as at the time of its decision and subsequently, that Council has been preparing and adopting its Part 2 LP. As discussed above, the proposal in its current form is clearly contrary to a number of policies contained in that document and the complementary CS.

82. The Framework says at para. 136 that GB boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation and updating of plans. In preparing its LP, Rushcliffe Borough Council has reviewed its GB boundaries and removed land from the GB to meet its ongoing development needs, including the land south of Clifton. It had every opportunity to remove land at Redhill from the GB if it considered there to be sufficient evidence to justify a demonstrable need for a marina in this location. Alternatively, it could have followed the same course elsewhere, in its part of the Soar valley, if there was sufficient evidence to demonstrate exceptional circumstances to justify the release of other land from the GB to provide a site for a marina. However, it has not done either.

Conclusion

83. National guidance in the Framework says in para. 87 that inappropriate development is by definition harmful to the Green Belt and that such development should not be approved, except in very special circumstances. This is the agreed position in this case. It is therefore for the Appellant to demonstrate very special circumstances if the proposal is to be allowed. Substantial weight attaches to the harm to the Green Belt by reason of the inappropriate nature of the development.

84. In addition to the harm by virtue of inappropriateness, significant weight should be given to the harm caused to the openness of the Green Belt and to the proposal's conflict with GB purpose c). Consequently, the proposal would be at variance with LPP Policy 2 as well as the Framework's GB policy.

85. I also give moderate weight to the harm to the character and appearance of the local countryside, having particular regard to the contribution this site makes to the wider landscape character area and the views of the appeal site from the adjacent roads and public footpaths and by people using the river and its tow path. The proposal is contrary to CS Policy 16, LPP Policies 34 and 35, Policies M3.3 and M3.22 of the MLP and para. 127(c) of the Framework.

86. In addition, I give significant weight to the potential harm that the development could cause to flooding in the area, the Appellant having not demonstrated that the development would be appropriately flood resistant and resilient. It is contrary to MLP Policies M3.1 and M3.9 and LPP Policy 17 as well as the Framework at paras. 155 and 163.

87. In the absence of an appropriate comprehensive archaeological assessment, I give significant weight to the potential harm the proposal could cause to

archaeology, it being contrary to Policies MLP M3.24 and LPP 29 as well as section 16 of the Framework.

88. The incomplete ecological information leads me to conclude that there could be significant harm to biodiversity as a result of the proposal. This is contrary to CS Policy 17, MLP Policy M3.17 and para. 175 of the Framework and attracts moderate weight against the proposal. The proposal would also be harmful to the implementation of HS2b.

89. However, in its current format, because of the incomplete evidence base, this proposal could cause considerable harm to the other issues discussed above. Irrespective of the substantial weight afforded by national and local policy to the harm to the GB and the presence of the HS2b safeguarding direction, the appeal could be dismissed on the basis of the considerations of inadequate or incomplete evidence alone. Overall, I consider the proposal to be clearly contrary to the policies of the DP when considered as a whole and to the Framework.

90. I give moderate weight to the provision of the marina berths and also to the benefits to the local economy, which are given some support from LPP Policy 31 and the Framework at para. 83.

91. However, in the circumstances discussed above and taken together, these are not, in my view, the very special circumstances required to counter the harm to the GB and the other matters that I have identified. I find that the other considerations in this case fall far short of clearly outweighing the harm to the GB and the other matters of importance that I have identified. I have taken into account all of the other matters raised in evidence but have not found anything to outweigh the main considerations discussed above that have led me to my conclusions. Consequently, the very special circumstances necessary to justify the development do not exist.

92. I dismiss the appeal.

M Middleton

INSPECTOR