



Appeal Decision

Hearing held on 5 December 2023

Site visit made on 5 December 2023

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

Appeal A Ref: APP/Q3115/C/23/3320180

Caversham Lake Watersports, Henley Road, Caversham RG4 9RA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Martyn Edwards on behalf of Cosmonaut Leisure Limited against an enforcement notice issued by South Oxfordshire District Council.
- The notice was issued on 1 March 2023.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from gravel extraction to water based sport and recreational use, with ancillary activities including but not necessarily limited to office, reception, storage, parking, food and drink services, change room, shower and toilet facilities, live and amplified music, other organised events, camping, fireworks displays and overnight security accommodation. This unauthorised development has also been facilitated by the stationing from time to time of portable toilets, caravans, trailers, containers, tents, marquees, bins, buoys, used tyres, artificial grass, outdoor furniture, generators, machinery, sport and recreational equipment, chattels and paraphernalia. The unauthorised use has also been facilitated by the erection of the fences and gates (shown coloured blue on the Plan at Attachment 2).
- The requirements of the notice are to:
 - (i) Stop using the Land for water based sport and recreational use, together with all ancillary activities, including but not limited to office, reception storage, parking, food and drink services, change room, showers and toilet facilities, live and amplified music, other organised events, camping, fireworks displays and overnight security accommodation.
 - (ii) Remove from the Land all facilitating development, including but not limited to all portable toilets, caravans, trailers, containers, tents, marquees, bins, buoys, used tyres, artificial grass, outdoor furniture, generators, machinery, sport and recreational equipment, chattels and paraphernalia referred to in 3 above; and the fences and gates also referred to in 3 above and shown coloured blue on the Plan at Attachment 2.
- The period for compliance with the requirements is: 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part, the enforcement notice is upheld with variations in the terms set out below in the Formal Decision and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended

Appeal B Ref: APP/Q3115/C/23/3320181

Caversham Lake Watersports, Henley Road, Caversham RG4 9RA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Martyn Edwards on behalf of Cosmonaut Leisure Limited against an enforcement notice issued by South Oxfordshire District Council.

- The notice was issued on 1 March 2023.
- The breach of planning control as alleged in the notice is without planning permission the undertaking of building, engineering and other operations, comprising (i) the laying of sand and pea shingle to create artificial beaches shown cross-hatched black on the plan at Attachment 2; (ii) creation of areas of hardstanding by the laying of gravel and artificial turf whether separately or in combination shown hatched black on the plan at Attachment 2; (iii) erection of buildings shown coloured blue on the plan at Attachment 2; (iv) the construction of a bridge shown coloured orange on the plan at Attachment 2; and the erection of fences exceeding 2m in height shown coloured green on the plan at Attachment 2.
- The requirements of the notice are to:
 - (i) Scrape back the sand and pea shingle from the artificial beaches shown crosshatched black on the plan at Attachment 2.
 - (ii) Dig up the gravel and artificial turf surfaces from the hardstanding areas shown hatched black on the plan at Attachment 2.
 - (iii) Demolish or dismantle all of the buildings shown coloured blue on the plan at Attachment 2.
 - (iv) Demolish or dismantle the bridge shown coloured orange on the plan at Attachment 2.
 - (v) Demolish the fences shown coloured green on the plan at Attachment 2.
 - (vi) Permanently remove from the Land all materials, waste and equipment resulting from steps (i),(ii),(iii),(iv) and (v) above.
 - (vii) Reinstatement all areas of the Land disturbed as a result of steps (i),(ii),(iii),(iv),(v) and (vi) above by the laying, rotavating, rolling and raking of clean topsoil and the sowing of a general purpose meadow grass mix.
 - (viii) Reinstatement shrub/hedge planting along disturbed lengths of the lakes edge by the planting of a mix of Hazel 30%; Blackthorn 30%; Hawthorn 30%; Field Maple 5%; and Oak 5% - all plants having a minimum 60-90cm whip size and planted at a density of 4-6 plants per metre in two staggered rows 40-60cm apart.
- The period for compliance with the requirements is: 9 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

1. Immediately prior to the Hearing, a number of letters of support were submitted by the appellant. However, no justification was provided as to why they were submitted so late in the process and not within the requisite time period for the submission of comments. Given the number of letters received and their late submission, the Council did not have sufficient time to thoroughly review them prior to the Hearing. Therefore, to accept them would cause significant injustice to the Council. Consequently, I have not taken these letters into consideration in my determination of the appeal.
2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published and this is a material consideration which should be taken into account from the date of its publication. I have therefore determined the appeal in light of the revised Framework. As there is no change in the revised Framework relevant to the

appeal, it has not been necessary to seek comments from the parties on the revised version.

Appeal A – The ground (b) appeal

3. In appealing on ground (b) the burden of proof is firmly on the appellant to demonstrate that the alleged breach of planning control has not occurred as a matter of fact.
4. The appellant states that firework displays as alleged in the enforcement notice (the notice) have not occurred on the site. The Council's only evidence that firework displays have taken place on the site is based on anecdotal evidence from nearby residents.
5. There are a number of other businesses within proximity of the site, including a rowing club and marina, and many more on the other side of the River Thames. Given the site is well screened from neighbouring residential properties by natural vegetation, unless one is within the appeal site or directly adjacent to it, it would be very difficult to ascertain whether fireworks were being discharged on the appeal site or on a nearby site. During the hearing a local resident confirmed they have heard fireworks but could not confirm where they were coming from.
6. Consequently, due to the lack of evidence to indicate otherwise, I am satisfied that no firework displays have occurred on the site. I shall therefore vary the notice to omit the reference to fireworks from the allegation and the requirements.
7. The ground (b) appeal, insofar as it relates to firework displays only, therefore succeeds.

Appeal A – The ground (c) appeal

8. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is upon the appellant.
9. The allegation in the notice refers to 'water based sport and recreational use'. This covers a wide range of activities, including swimming, birdwatching, walking and angling. The appellant argues that these activities have always taken place and should be regarded as informal recreational activities permitted by the Lafarge Aggregates Limited, Caversham Quarry Landscape Management and Aftercare document (LMA).
10. Figure 2A of the LMA identifies the appeal site as 'North Lake: South Banks Nature Reserve', whereas other neighbouring lakes are identified for water sports and fishing. Moreover, figure 2A indicates a number of 'Permissive Path' routes running through the wider lake complex. Section 1 of the LMA states these routes provide for controlled access to areas of nature conservation interest as well as separate areas of informal recreation. None of the routes identified traverse the appeal site. Although a Permissive Path is identified as forming part of the existing access road that runs adjacent to the site, it does not lead into it.

11. Consequently, having regard to the LMA, I find that its intention is that the site is used for nature conservation and not for recreational activities, informal or otherwise.
12. I note that part of the appeal site falls outside of the 'Section 106 Management Area' black dashed line as identified in figures 1 and 2A of the LMA. However, it is not clear what this 'Section 106 Management Area' in fact denotes, as much of the lake complex falls outside of it. Either way, there is no evidence to demonstrate that the North Lake was intended to be used for anything other than nature conservation.
13. Notwithstanding the above, a number of interested parties at the Hearing confirmed there can be up to 60-70 people using the lake for open-water swimming each day during the winter months and this can rise to 100+ people in the peak season. The appellant does not dispute this. Whilst I accept that the open-water swimming is carried out on a recreational and not a competitive basis, the significant number of people swimming far exceeds what could reasonably be described as an informal activity. As a result, it clearly forms part of the mixed use of the site, which requires planning permission.
14. With regard to the use of the site for walking, birdwatching and angling there is little evidence that, prior to the mixed use currently taking place on the site, these activities were carried out on a limited scale and therefore would not likely have amounted to development requiring planning permission. However, with the introduction of the other activities onto the site, including the water park, stand-up paddle boarding and open-water swimming these activities now form part of the overall mixed use of the site.
15. The ground (c) appeal therefore fails.

Appeal A and Appeal B – The ground (a) appeal and the deemed planning applications

Main Issue

16. In respect of Appeal A and Appeal B, the main issues are the effect of the development on the character and appearance of the area and biodiversity. In respect of Appeal A only, the main issues also include the effect of the development on highway safety.

Reasons

Character and Appearance

17. The appeal site comprises a large lake, set within a complex of several other lakes that previously formed a gravel pit. Access to the lake is via an access road leading off the A4155 (Henley Road) which also serves a number of other businesses located on and around the lake complex.
18. The appeal lake is surrounded by vegetation on its shoreline and beyond, comprising trees and shrubland. Although the lake is man-made through its excavation as part of the wider gravel pit complex, it has now been reclaimed by nature, with well-established, extensive vegetation around its edges, which provides numerous habitats for a variety of wildlife. Overall, the lake provides an open, tranquil environment that makes a positive contribution to the character and appearance of the area.

19. The development that is the subject of the appeals occupies a large portion of the eastern shoreline of the lake and includes the erection of numerous timber-clad, single-storey buildings and chattels; containers; fencing and gates; and, a bridge providing access to the island on the eastern side of the lake. In addition, gravel and artificial grass has been laid down through the developed area, creating expansive areas of hardstanding, including artificial beaches that allow access into the lake. Moreover, there are other, non-permanent paraphernalia and structures such as marques, caravans, portable toilets, bins, buoys, and outdoor furniture, as well as equipment for sport and recreational activities, such as paddle boards and inflatables.
20. The numerous buildings, structures and chattels represent a large mass of built form of a utilitarian character which unduly dominates rather than integrates into to the otherwise natural character and appearance of the lake and its immediate surroundings.
21. None of the development exceeds single-storey in height and much of it is screened from the access road. However, this is due to the close boarded timber fence that bounds the site with the road. Due to its significant length and height, the fence is itself unduly dominant and introduces an incongruous, urbanised character to the area. For the same reasons, the fence screens views of the lake from the road, diminishing the openness of the area.
22. I acknowledge the appellant's confirmation they intend to remove four caravans, located along the northern part of the site. However, this would not sufficiently overcome the harm the overall development has on the character and appearance of the area. Moreover, during the hearing, the appellant confirmed they could also remove numerous other buildings, structures and chattels as well as remove some artificial grass as they are no longer used/required. Notwithstanding no formal plan of what exactly would be removed has been presented to me, a significant portion of the development would nevertheless likely remain and be unacceptably harmful to the character and appearance of the area.
23. I have had regard to the appellant's acknowledgement that the buildings and structures are of a temporary nature and their suggestion that a condition could be imposed allowing their retention for a period of five years to enable planning permission to be sought for an appropriately designed, permanent building. Notwithstanding the fact there is no guarantee that such planning permission would be granted, there is no sufficient justification for allowing the existing harm to the character and appearance of the area to continue for a period of up to five years.
24. Furthermore, given the extensive area covered by the development, it has not been sufficiently demonstrated that a comprehensive landscaping scheme would adequately mitigate the harm. In addition, such a scheme would likely take a significant amount of time to establish.
25. I find therefore, the development unacceptably harms the character and appearance of the area, contrary to Policies DES1, DES2 and ENV1 of the South Oxfordshire District Council Local Plan 2035 (the LP), which seek to ensure development respects existing landscape character; reflect the positive features that make up the character of the local area and physically and visually enhance and complement the surroundings; and, protect, and where possible enhances, features that contribute to the nature and quality of South

Oxfordshire's landscapes. It also fails to accord with the general design objectives of the Framework.

Biodiversity

26. The appellant's Ecological Impact Assessment (EcIA), dated April 2022 prepared by RammSanderson Ecology Ltd, identifies a number of habitats on site. However, it considers these habitats to be of limited ecological value and mostly noted their potential to support protected and notable species.
27. A biodiversity impact assessment was undertaken as part of the EcIA in accordance with guidelines published by DEFRA and via the DEFRA Metric Calculation Tool 3.0. At the time the EcIA was prepared, the Metric Calculation Tool 3.0 was not the most up-to-date metric. Nevertheless, I do not find that it was unreasonable to use it. Based on Metric 3.0, the site contains 326.05 baseline biodiversity units for habitat areas. The development was considered to result in a loss of 3.67% habitat units. However, with the suggested enhancements there could be a resultant 9.34% gain in habitat units.
28. However, the findings of the EcIA appear to be predicated on the condition of the site at the time the assessment was carried out, ie with the development in situ. There is no evidence that the EcIA, notably the biodiversity impact assessment, accounted for the condition of the site prior to the development being carried out. Had it done so, it is reasonable to conclude that the baseline biodiversity units for habitat areas would likely be different, due to the absence of the buildings, structures, chattels and expansive areas of land covered in hardstanding and artificial grass. An aerial photograph dated 2016¹ clearly shows a continuous line of vegetation along the shoreline where the artificial beaches have since been created and vegetated areas of land that are now covered in gravel or artificial grass, notably the island and the areas to the north and south of the building complex (not including what appears to be a linear area of hardstanding to the south, adjacent to the road) as well as the building complex itself.
29. Therefore, I do not consider the EcIA provides an accurate biodiversity baseline for habitat units. Consequently, it is not possible to ascertain what the loss in habitat units is as a result of the development and what enhancements are necessary to mitigate, if at all possible, any such losses.
30. Notwithstanding the concerns I have regarding the accuracy of the baseline habitat units, the proposed enhancements that would result in a 9.34% gain in habitat units are largely accounted for by the creation of a reed beds on a significantly large portion of the western area of the lake. During the hearing, the Environment Agency's Biodiversity Officer confirmed that reed beds need approximately 0.5m depth of water to establish. Given the extent of the area covered by the proposed reed bed enhancements, it is very unlikely that all of this area would be shallow enough for reed beds to establish; the likelihood is that very little of it would be. The use of floating reed beds to cover the suggested area of enhancement would be impractical on such a large scale.
31. An issue that arose during the hearing was the question of whether there was in fact a need to provide biodiversity net gain at the level suggested by the EcIA. Paragraph 180 the recently revised Framework requires development to

¹ Council's Hearing Statement, Appendix 7

provide net gains for biodiversity, however, it does not indicate how much gain is required. Although from January 2024, The Environment Act 2021 requires all sites, except small sites, to deliver at least 10% biodiversity net gain, this does not apply to planning applications submitted prior to this date. I have not been referred to any specific development plan policy specifying a particular level of biodiversity net gain. However, in the absence of an accurate biodiversity baseline of habitat units, this is an academic argument as it is not possible to establish with any reasonable certainty whether, even with enhancements, there would be any biodiversity net gain.

32. I acknowledge the appeal site is of a significant size and the possibility that appropriate mitigation could be accommodated somewhere on site. However, without an accurate biodiversity baseline of habitat units, it is not possible to identify whether such measures would indeed be sufficient.
33. In addition, the EcIA identifies that trees on the island have the potential for bat roosting. However, ground level tree inspections were not carried out. Given that the island is used for activities as part of the development, and has included the erection of a large marquee, there is a reasonable prospect that such activities could disturb any roosting bats within these trees. I have had regard to the possibility of imposing an appropriately worded condition requiring further bat surveys, in the event I allow the appeals. However, paragraph 99 of Circular 06/2005 is clear that a precautionary approach should be taken in respect of protected species, and surveys should be undertaken prior to the grant of planning permission, to take full account of the presence of protected species, which are an important material planning consideration. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances. There is no evidence before me to suggest there are any such exceptional circumstances.
34. Consequently, it would be unreasonable to condition a further survey as this information is required from the outset to make an informed decision, consistent with the guidance in paragraph 99 of Circular 06/2005. In the absence of an appropriate survey, I am unable to determine what proposed mitigation measures would adequately safeguard or compensate for any harm caused to bats by the proposal.
35. I find therefore, in the absence of a suitable ecological assessment, it is not possible to ascertain the effect the development has had on biodiversity and what, if any, mitigation measures would be appropriate. Therefore, the proposal fails to comply with Policies ENV2 and ENV3 of the LP, which seek to protect biodiversity. It also fails to accord with the Framework, which similarly seeks to protect biodiversity.

Highway Safety

36. A Technical Note, dated July 2023, prepared by Transport Planning Associates accompanied the appeal submissions and seeks to address the concerns raised by the two local highways authorities – Oxfordshire County Council and Reading Borough Council.
37. The Technical Note states there are three activities taking place on the appeal site – the Aqua Park, Open Water Swimming and Stand Up Paddle Boarding. The Council argue that other activities such as events also take place and the

Technical Note has omitted to assess the effects of these. However, paragraph 5.2 of the Technical Note states 'The operations of the site primarily consist of three components'. The use of the word 'primarily' acknowledges there are other uses and the appellant confirmed at the hearing that these other activities, such as events, are very few and far between. Moreover, the actual survey of the bookings made, referred to in the Technical Note, included all bookings for the site. Accordingly, in this respect, I am satisfied that the surveys included in the Technical Note included all activities.

38. The results of the surveys indicate a 4.3%, at worst, increase in traffic flows along Henley Road and therefore the impact on this road is considered to be below the impact threshold. The appeal site accounts for a maximum of 51% of the daily traffic flows along the access road. Overall, the Technical Note finds the development is unlikely to have an impact on safety or delay at the Henley Road/access road priority junction or along Henley Road.
39. Notwithstanding these findings, there is no evidence that the Technical Note has taken in account the individual arms of the Henley Road/access road junction. Travelling eastbound along Henley Road, it is difficult to turn into the access road as there are no traffic lights at this point. Therefore, drivers have to wait in the road until a break in the westbound traffic to make the turning. Given the proximity of this turning to the traffic lights, it would not take long for a queue of vehicles waiting to turn right onto the access road to back up and obstruct other road users at the traffic lights. Turning onto the access road when travelling from Caversham Park Road is also difficult, requiring the crossing of three lanes (one eastbound on Henley Road, one westbound on Henley Road and one turning right onto Caversham Park Road), which can be time consuming waiting for a break in traffic to make the crossing. Moreover, exiting the access road and seeking to turn onto Caversham Park Road is also time consuming, having to wait for a break in the traffic in order to cross the lanes.
40. Whilst the increase in traffic on the Henley Road/access road junction may well be within the impact threshold, due to the particular layout of the junction, notably the difficulties in entering the access road from the westbound side of Henley Road and from Caversham Park Road, there is a reasonable prospect that the significant increase in road users turning into and out of the access road could result in an unacceptable effect on highway safety.
41. During the hearing the appellant argued that it is incumbent upon the Council to improve the Road/access road junction. However, the Council confirmed that there are no plans for such improvements. The fact the junction is not in the control of the appellant does not justify harm to highway safety at the junction as a result of the development.
42. The Council also raise concerns that the development does not provide for adequate safe pedestrian access along the access road. The appeal site is within reasonable walking distance of a large number of residential properties. Therefore, it is reasonable to conclude that many users of the development could walk to the site and therefore adequate provision should be made to accommodate this.

43. The access road has no designated pedestrian walkway. Its width varies but as identified on the drawings included in the Technical Note² a large stretch of the road between the junction with Henley Road and the appeal site is below 4m in width. As a consequence, when two cars are passing, one car would likely have to mount the grass verge. Were there to be a pedestrian walking along the road, then this could result in a conflict between the driver and the pedestrian.
44. The access road is very straight, enabling excellent visibility in both directions for both pedestrians and drivers. Therefore, both drivers and pedestrians would have sufficient visibility to see each other approaching. However, particularly along the stretch of road between the junction and the bridge, the grass verges are very narrow and uneven with the road therefore preventing pedestrians safely stepping into them to allow cars to pass. Moreover, during inclement weather, wet and muddy verges may dissuade pedestrians stepping into them, resulting in them becoming within very close proximity of moving vehicles.
45. In addition, the access road is not lit, therefore increasing the risk of conflict between pedestrians and vehicles due to them sharing the narrow road during early mornings/late evenings.
46. I note the proposal to provide a gravel path for pedestrians between the bridge and the appeal site. However, there would remain a stretch of road past the bridge where there would be no path. The undue risk to pedestrian safety would still remain along this stretch of the road. Moreover, I note the use of road signage to make drivers aware of pedestrians in the road. However, this is not suitable mitigation against the unacceptable risk to pedestrian safety the development causes.
47. I acknowledge there is no evidence that any road accidents in the vicinity of the junction has been directly attributable to the appeal development. Nevertheless, the lack of accidents does not mean there is not an unacceptable risk of one.
48. For the reasons given above, the development has an unacceptable risk to highway safety, contrary to Policies Trans4 and Trans5 of the LP, which seek to ensure development does not have an unacceptably adverse effect on highway safety. It also fails to accord with the Framework's objective of promoting highway safety.

Other Matters

49. I have had regard to the benefits physical exercise and being in the outdoors has to physical and mental wellbeing, which evidently benefits a large number of people that have expressed their strong support for the development. Also, I acknowledge the economic benefits through the provision of jobs, albeit these would largely be seasonal. However, individually or cumulatively, these matters do not outweigh the harm I have identified above with regard to the character and appearance of the area, biodiversity and highway safety.
50. The Council and Environment Agency also raise concerns regarding flood risk. However, during the hearing, they conceded that, subject to the suggested conditions being imposed, in the event I allow the appeals, their concerns

² Drawing PL03

would be sufficiently addressed. Given that I shall be dismissing the appeals and refusing planning permission, I need not address this matter any further.

Conclusion on the ground (a) appeals and the deemed planning applications

51. For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude that planning permission should not be granted in response to the ground (a) appeals against the enforcement notices and deemed applications. Therefore, the ground (a) appeals fail.

Appeal B - the ground (f) appeal

52. This ground is that the notice requirements are excessive. Depending on the purpose of the notice, this can be assessed against the question of whether the requirements exceed what is necessary to remedy the breach of planning control; or, any injury to amenity.

53. The evidence before me is not explicitly clear on what the condition of the appeal site was prior to the works being undertaken, in particularly the extent of vegetation. Nevertheless, aerial photographs clearly show that there was vegetation along the edges of the lake that are now covered with gravel and artificial grass.

54. The appellant argues that the LMA states that non vegetated margins, such as the beaches, are appropriate habitats for the lake margins. However, figure 1 of the LMA clearly indicates the entire eastern shoreline of the lake annotated as '6A – Reedbed/Marginal Vegetation', with only small islets being '6B – Non Vegetated Margins'. In any event, the aerial photographs that post date the LMA clearly show vegetated margins prior to the development being carried out. In addition, although the site was once used as a quarry pit, it has since been reclaimed by well-established natural vegetation. Therefore, retaining the gravelled areas would set the condition of the site back to more like it was immediately after the gravel pit closed rather than immediately prior to the appeal development commencing, when the mitigation against the gravel pit was well established through extensive vegetation growth. Therefore, it is not unreasonable for the requirements of the notice to return the site conditions to this vegetated condition.

55. I note the appellant's argument that the previous vegetation was likely self-set and not a formal hedgerow. However, to leave the site to self-set once more would likely take many years before it returned to its previous condition. Whilst requirement (viii) of the notice may perhaps result in more formal planting in the short term, I have not been presented with an alternative method of returning the site to its previous condition thus overcoming the harm to biodiversity. Overtime, the planting will assimilate with the other margin vegetation around the lake.

56. With regard to the bridge, this provides access to the island, which the appellant argues is necessary to enable birdwatchers, anglers and other informal users of the site use and is also used for the maintenance of the island. However, there is no justifiable need for such access to the island. There are plenty of other areas around the lake to carry out such informal activities. The lack of access would likely encourage greater biodiversity on the island as there would be less human disturbance.

57. I acknowledge the cleared areas allow good surveillance of the lake in the interests of its users. Notwithstanding I am dismissing the ground (a) appeals and refusing the deemed planning applications, thus the numbers of users would likely become very limited, this does not justify the clearance of large areas of vegetation.
58. Overall, the requirements of the notice do not exceed what is necessary to remedy the breach of planning control; or, any injury to amenity. I therefore conclude the ground (f) appeal must fail.

Appeal A and Appeal B - the ground (g) appeal

59. This ground of appeal is that the period for compliance is unreasonably short.
60. The appellant seeks to extend the time for compliance with the requirements of the notices from 4 months to 12 months in respect of Appeal A and 9 months to 15 months in respect of Appeal B. This is to enable the appellant to find an alternative site to operate the business.
61. However, such sites are likely to be few and far between, particularly sites that benefit from planning permission for such activities. I have not been provided with any evidence of such alternative sites and therefore it has not been demonstrated that there is a likelihood that an alternative site could be found even within the proposed extended compliance periods.
62. During the hearing, the appellant argued there could be bats present within the buildings and under the bridge, which could prevent the removal of them within the compliance periods set out in the notices. Notwithstanding the lack of evidence supporting this contention and the Environment Agency's Biodiversity Officer's confirmation that these are likely to be unsuitable for bat roosts, should any bats be found whilst carrying out such works this would be regulated under separate legislation.
63. Overall, the extension of the compliance periods to such an extent as that proposed would unduly prolong the harm to the character and appearance of the area, biodiversity and highway safety for which there is no justifiable reason for doing so.
64. I therefore consider the period of compliance specified in the notices is not unreasonably short, and I do not find justification for extending it. The ground (g) appeal must fail.

Formal Decision

Appeal A

65. It is directed that the enforcement notice is varied by:
- (a) The deletion of the words "firework displays" under paragraph 3.
 - (b) The deletion of the words "firework displays" under paragraph 5, requirement (i).
66. Subject to the variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

67. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Martyn Edwards
Paul Bedwell MRTPI
Bill Montague

Appellant
Planning Agent
Solicitor

FOR THE LOCAL PLANNING AUTHORITY:

Robert Cramp

Principal Planning Officer, Enforcement,
South Oxfordshire District Council
Senior Ecology Officer, South Oxfordshire
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Edward Church

Darren Cook

Transport Development Control Manager,
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Lesley Sproat

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Neil Landricombe

Flood Risk Management Advisor, the
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INTERESTED PARTIES:

Dr. Clare Sheriff

Local business owner

Mr Sheriff

Local business owner

Emily Wright

Local resident/site user

Prof. Greg White

Local resident/site user

Alan Staley

Local resident

Kerry McGrath

Eye and Dunsden Parish Council