



PLANNING COMMITTEE: 30 September 2010
DIRECTORATE: Planning and Regeneration
HEAD OF PLANNING: Susan Bridge

N/2010/0475 **Removal of condition 2 of planning permission N/2008/0502 for boat / restaurant & bar and associated access. Midsummer Meadow, Bedford Road**

WARD: **St Crispins**

APPLICANT: **Mr Patel**
AGENT: **Ron Sheffield - Architect**

REFERRED BY: **Head of Planning**
REASON: **Borough Council land**

DEPARTURE: **No**

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

- 1.1 That Condition 2 of planning permission N/2008/0502 which limits the development to a temporary period of 5 years be deleted and replaced with a condition securing an end of life plan to remove the vessel and restore the riverbank subject to prior completion of a suitable S106 agreement as outlined below.
- 1.2 The end of life plan would be enacted at the end of the commercial cycle or when the vessel no longer maintains the standards set out for independent assessment by an agreed third party within a S106 legal agreement between the developer / owner and the Council.
- 1.3 Delegated authority is sought from the Committee to the Head of Planning to establish the terms of the legal agreement that will ensure the good upkeep of the vessel, thus overcoming the need to control the development by terminating planning permission five years after first operation.

2. THE PROPOSAL

- 2.1 The initial proposal by the applicant involves the removal of Condition 2 of planning permission reference N/2008/0502 determined by committee on 6th April 2008.

- 2.2 Condition 2 states:

The use hereby permitted shall be discontinued and the land restored to its former condition (including full removal of the vessel and mooring) on or before 5 years from first installation of the vessel hereby approved.

- 2.3 The reason for this condition is:

To enable the Local Planning Authority to assess the effect of the development during the said period in accordance with Policy E20 of the Northampton Local Plan.

3. SITE DESCRIPTION

- 3.1 Midsummer Meadows are the flood meadows of the River Nene as it passes east out of the centre of Northampton. Whilst the areas to the north of the proposed mooring site closest to Bedford Road are managed as public open space, the land between the Nene and the dead arm to the south of the main course of the river are wilder and semi-natural with significant ecological value.
- 3.2 The restaurant would be moored on the north bank of the dead arm close to an informal Council owned car park accessed directly from Bedford Road. The site is south of the old substation on Bedford Road and not far from the Council's Cliftonville House offices.
- 3.3 A new footbridge, replacing a previous unsafe bridge, linking the extensive footpaths on the north side of the river with the natural areas on Midsummer Meadows, has recently been installed directly east of the proposed mooring.

4. PLANNING HISTORY

- 4.1 N/2007/0569 – Boat restaurant and bar and associated access at Midsummer Meadow (closer to town centre on the main course of the River Nene) – Withdrawn
- 4.2 N/2008/0502 - Boat restaurant and bar and associated access at Midsummer Meadow. Approved at Committee 6th April 2010.

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The current Development Plan comprises of the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

5.2 National Policies:

PPS1 – Delivering Sustainable Development
PPS4 - Planning for Sustainable Economic Growth
PPS9 - Biodiversity and Geological Conservation
PPG13 – Transport
PPS23 - Planning and Pollution Control
PPS25 – Development and Flood Risk

5.3 Northampton Borough Local Plan

E1 – Landscape and open space
E2 – Riverside landscape
E17 – Nature conservation
E18 – Sites of acknowledged nature conservation value
E20 – New Development
E40 – Crime
L1 – Existing recreational facilities
L16 – River Valley Policy Area
L17 – Use of river and canal
L29 – River valley policy area: provision of new facilities
T12 – Development requiring servicing
T22 – Provision for people with a disability

5.4 Supplementary Planning Guidance

Planning out Crime in Northamptonshire SPG 2004

6. CONSULTATIONS/REPRESENTATIONS

6.1 NBC Public Protection – No objections.

6.2 Town Centre Manager - objects on the basis that removal of the condition will lessen the ability of the Council to control the condition of the vessel and protect the surrounding environment.

6.3 Northants Police – no formal objection.

6.4 NCC Highways – no observations.

6.5 Northants Wildlife Trust – no objections (comments on future management and relationship with the Local Nature Reserve)

6.6 Environment Agency – object to the removal of the condition, but happy to see an end of life plan in place alternatively.

7. APPRAISAL

- 7.1 The previous committee report of April 2010 set out the recommendation for including Condition 2 in paragraph 7.9:

Boats are distinct from permanent buildings in that they can significantly degrade over relatively short periods of time. End of life plans for the vessel have been raised by the Environment Agency and may be an issue for the Borough Council as adjoining landowner. In short, it is considered that for a number of reasons, including preserving the long term appearance of the river, it is pragmatic to review the boat restaurant and its physical appearance five years after first commencing operations. Therefore, a condition giving temporary consent for 5 years is recommended for this use.

- 7.2 These concerns are maintained. It is still considered that there are substantial reasons why the vessel is likely over time to deteriorate and have an adverse impact on the appearance and environment of the locality if left uncontrolled.
- 7.3 The Environment Agency and NBC Town Centre Manager have both responded to this application with concern and objections that the 5 year control of this vessel is important in terms of the river environment and town centre regeneration. These comments should be given significant weight, in particular the objections of the Environment Agency given their experience in managing the river environment and knowledge of how such vessels can degrade.
- 7.4 The applicant states that they have struggled to secure finance for a business that is restricted by such a short life cycle as five years. This problem is understandable and a certain amount of empathy can be offered. Given the positive benefits that this business can bring to the town, as previously explored during the April committee consideration, the case officer has sought to find a long term solution that will maintain the appearance and environment of the Nene valley, whilst not restricting the development to a shortened period of consent.
- 7.5 A meeting has been held with the applicant's planning consultant and a way forward agreed.
- 7.6 Firstly, the existing condition should be replaced with an end of life plan condition that will ensure that the vessel is removed and the river restored should the business conclude.
- 7.7 Secondly, a legal agreement is proposed that will set out a series of standards by which the condition of the vessel can be judged. For example, the condition and sea worthiness of the hull must be inspected by an independent qualified marine surveyor to ensure the proper upkeep of the vessel on a regular basis. These standards are still in negotiation and delegated authority is sought from the Planning

Committee so that officers can first negotiate, then agree standards by which the condition of the vessel can be measured.

- 7.8 If the vessel is independently judged to have unduly degraded, then measures would be recommended to remedy this. If these are not completed in an agreed timeframe, then the end of life plan outlined above would kick in, the vessel would be removed and river restored.

8. CONCLUSION

- 8.1 It is considered that replacement of Condition 2 with an end of life plan condition is reasonable subject to a S106 agreement ensuring control is maintained.
- 8.2 The proposal is considered suitable for members' approval providing delegated authority for the Head of Planning to instruct the Borough Solicitor re a legal agreement that will secure the long-term review and maintenance of the vessel, ensuring the Nene valley environment and landscape is protected. Any unresolved degradation or abandonment of the vessel and its mooring will result in the end of life plan coming into effect and the river being restored to its natural state.

9. CONDITIONS

- 9.1 Replacement Condition 2:

Before the commencement of development a scheme shall be submitted to and approved by the Local Planning Authority which specifies an end of life plan for the vessel and its mooring. The end of life plan shall be enacted in accordance with the approved details on removal of the vessel from the watercourse unless otherwise prior agreed in writing with the Local Planning Authority.

10. LEGAL IMPLICATIONS:

- 10.1 None.

11. BACKGROUND PAPERS

- 11.1 None.

12. SUMMARY AND LINKS TO CORPORATE PLAN

- 12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.

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| Position: | Name/Signature: | Date: |
| Author: | Richard Boyt | 14/09/2010 |
| Development Control Manager Agreed: | Gareth Jones | 15/09/2010 |

