

**4/03310/16/FUL - THE INFILLING OF THREE EXISTING OPENINGS WITH CLEAR GLAZING AND TIMBER PANELS.  
THE OLD BOATHOUSE, CASTLE WHARF, BRIDGE STREET, BERKHAMSTED, HP4 2EB.  
APPLICANT: MR DAVID COWHAM.**

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[Case Officer - Ross Herbert]

### **Summary**

The application is recommended for approval.

Both the case officer and the Conservation and Design officer are suitably satisfied that the modest alterations to the building proposed as part of this application will not prejudice the permitted use of the building as a commercial boat yard. The scheme has been subject to negotiation with the Council's Conservation and Design team. The scheme has been amended to improve the fenestration and framing details to better reflect the industrial heritage of this canalside site. As a result it is considered that the proposed development would sit comfortably on the canalside elevation of the Boathouse and would be sympathetic to the character and appearance of the existing building, the conservation area and the canalside environment. As such the proposals would be in compliance with policies CS11, CS12, CS27 of the Core Strategy, together with saved policy 106 of the Local Plan.

### **Site Description**

The site lies in the urban area of Berkhamsted and within the Conservation Area. It forms part of the redeveloped boatyard on the canalside in Berkhamsted, constructed under the original planning ref 4/00804/10/FUL and the amendments under 4/01070/11/FUL. Its principal frontage is on to the south bank (off-line side) of the Grand Union Canal with access via Bridge Street. It is bounded by the canal, the River Bulbourne, Bridge Court sheltered housing, a private detached dwelling and the former warehouse building associated with Castle Wharf, now a private residence known as The Warehouse. The site shares its vehicular access with Bridge Court.

The site is clearly visible from up and down the canal with the boatyard occupying a landmark positioned midway between the two canal bridges at Castle Street and Ravens Lane.

### **Proposal**

Planning permission is sought for the introduction of three panels of metal-framed glazing into the existing openings on the canal facing elevation of the old boat house. The glazing would be located behind the existing shutters and would comprise of powder coated frames and glazing bars in an industrial pattern, with central pivot opening light. Each window would have a brick cill in Staffordshire Blue engineering bricks.

#### *Procedural note*

The application was originally submitted as a Full Householder Application. The applicant was made aware by the case officer at validation stage that a Full Planning Application would be required, due to the commercial use of the building. Replacement application forms and the remainder of the planning fee were duly submitted and the application validated.

### **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

### **Planning History**

4/02325/05 - 2005 full application for 5 residential units with no canalside facilities and the loss of the whole slipway, refused on grounds of: lack historic canal wharf facility; overbearing and dominant houses in terms of scale, height and design; and overdevelopment via insufficient parking and turning on site. It was subsequently dismissed at appeal via a public inquiry.

4/01230/06 - In 2006 a further full application was submitted by the same owner for 4 residential units, retention of slipway and provision of a pump-out facility. This was refused by DC Committee on the following grounds: its lack of a replacement boatyard facility and impact on canalside environment failing to accord with Policy 106; the pump-out facility alone would fail to compensate for this; an unacceptable impact on neighbouring amenities through smell and nuisance. This was also subsequently dismissed at a public inquiry appeal.

4/00804/10/FUL - demolition of boat shed and construction of new boathouse incorporating a residential unit and separate block of two flats, restored slipway and associated parking. Granted 11/11/2010.

4/01070/11/FUL - demolition of boat shed and construction of new boathouse incorporating a residential unit and flat, restored slipway and associated parking. Granted 08/09/2011.

4/02036/15/LDP PROPOSED GLAZING OF EXISTING WINDOW OPENINGS  
Refused  
24/08/2015

4/01902/16/LDP INTERNAL ALTERATIONS TO INFILL THREE EXISTING OPENINGS  
WITH GLAZING AND TIMBER PANELS  
Refused  
06/09/2016

4/00186/16/LDP THE INFILLING OF THREE EXISTING OPENINGS WITH CLEAR  
GLAZING AND TIMBER PANELS  
Granted  
24/03/2016

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)  
Circular 11/95

### Adopted Core Strategy

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS4 - The Towns and Large Villages  
CS12 - Quality of Site Design  
CS26 - Green Infrastructure  
CS27 - Quality of the Historic Environment  
CS29 - Sustainable Design and Construction

### Saved Policies of the Dacorum Borough Local Plan

Policies 106

## Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)  
Conservation Area Character Appraisal for Berkhamsted

### **Summary of Representations**

#### Berkhamsted Town Council

##### *Initial comments*

##### Object

The proposal conflicts with the stated use of the building as a boatyard thus resulting in an unauthorised change of use. This would imply increased noise and nuisance to neighbouring properties.

P120 Appendix 3 (vi)

##### *Comments on amended plans*

##### Objection.

The Town Council has noted some amendments to the proposals, in particular the inclusion of industrial steel windows inside the retained roller shutters. Notwithstanding, the proposals continue to conflict with the stated use of the building as a boatyard thus resulting in an unauthorised change of use. This would imply increased noise and nuisance to neighbouring properties.

P120; Appendix 3 (vi).

#### Conservation and Design

##### *Initial comments*

The boatyard structure sits adjacent to the canal within the conservation area and there are a number of locally listed buildings nearby. The proposal would be seen within the wider character of the canal side setting.

We would have no objection to the principle of glazing the window openings behind the shutters. Overall this would have a limited impact on the character of the canal. We welcome the set back of the windows which would be in keeping with the historic character of canal side buildings however it would be beneficial to review the fenestration of the windows. Generally canal side buildings dating to the 19th century which this building appears to respond to have smaller glazed panels. We do note that the neighbouring building has a similar fenestration to that proposed but whilst this may be appropriate for the large opening it may be beneficial to reconsider the fenestration to the smaller openings adjacent to the canal and ensure that the details of the surround and frames reflect this industrial character.

Recommendation We would not object to the proposals however it would be useful to reconsider the fenestration and frame details to the openings adjacent to the canal to ensure that the industrial character of the canal site is maintained.

##### *Comments on amended scheme*

The boatyard structure sits adjacent to the canal within the conservation area and there are a number of locally listed buildings nearby. The proposal would be seen within the wider character of the canal side setting.

We would have no objection to the principle of glazing the window openings behind the shutters. This would have a limited impact on the character of the canal. We welcome the set back of the windows which would be in keeping with the historic character of canal side buildings and believe that the amended design and materials proposed now reflects the industrial character of canal side buildings. This would be appropriate and in keeping with the conservation area and the character of historic development along the wider non-designated heritage asset of the canal.

Recommendation We would not object to the proposals and believe that the amended proposals ensure that the industrial character of the canal site is maintained.

#### Canal & River Trust

Thank you for your consultation.

The Canal & River Trust (the Trust) is the guardian of 2,000 miles of historic waterways across England and Wales. We are among the largest charities in the UK. Our vision is that "living waterways transform places and enrich lives". We are a statutory consultee in the development management process.

The Trust has reviewed the application. This is our substantive response under the Town and Country Planning (Development Management Procedure) (England) Order 2015. Based on the information available we have no comment to make. We do however request that the following informative is appended to the decision notice:

#### Informative

The applicant is advised to contact the Canal & River Trusts' works planner, Osi Ivowi, on 01908 302 591 to ensure that the work complies with our 'Code of practice for works affecting the Canal & River Trust'.

#### Historic Environment Advisor

In this instance I consider that the development is unlikely to have a significant impact on heritage assets of archaeological interest, and I have no comment to make upon the proposal.

Please do not hesitate to contact me should you require any further information or clarification.

#### Network Rail

No comments.

#### Response to Neighbour Notification / Site Notice / Newspaper Advertisement

#### Berkhamsted Citizens Association

At the meeting of its Townscape Committee on 10 January 2017 the Berkhamsted Citizens Association wished to express concern at this application.

The previous LDP applications concerning this site's glazing have been variously refused, granted and refused; the decisions depending on the Council's view of the advice of the applicant's planning barrister. The most recent refusal (4/01902/16/LDP) has elicited at last a planning application for Full Householder consent, so that the questions can be decided upon.

The questions seem to be: Does the application constitute development? and, Will the glazing affect the appearance of the building? The BCA takes the view that the answer to both is 'yes'. In fact, it considers that the glazing not only affects the appearance of the building, but also its ability ever to be used, at least partially, as a boatyard again. As such this application challenges terminally the concept of Berkhamsted as a centre for boat maintenance in the future.

However the Committee was not totally opposed to the alterations being carried out, provided the work was reversible, should boat maintenance here ever emerge as an option in the future.

#### 4a Station Road, Mr A Walsh

Object.

I would ask the planners to consider the long term implications of this change of use from its original intention. What has changed in planning terms?

#### 6 Station Road, Katie Forman

Object.

I live directly opposite The Old Boathouse at no.6 Station Road and I am one of the several houses adversely affected by this application. The openings in question look straight into my house.

My overriding concern then and now is if used residentially it would give me no privacy whatsoever at any time - in addition to the existing house which is opposite and above but those windows are higher up, set back and not as big.

So in summary my concern of permitting windows to be fitted is that the boatyard's use will change completely, contrary to the planning conditions, which will adversely affect me and my neighbours to a massive extent - loss of privacy, increase in disturbance and noise pollution. How this space is used has a fundamental impact on the properties opposite.

#### 7 Station Road, Jane Ferrett

Object.

The gardens will be overlooked by this change to the Old Boathouse taking away the privacy of the from anyone using the garden.

#### 8 Station Road, Jane Keenan

Object.

When the original plans for this site were passed they were on the basis of "permission being granted as it preserved the original character and amenity of the property in the heart of the conservation area", this being a boatyard. The Operational boatyard has been closed for some time and I believe all machinery has been removed. I understand the space is currently used as a gymnasium for the owners "employees" and often music is blasting across the water - this caused a disturbance over the summer months last year.

By installing glazed windows it will be impossible to use the property in accordance with the conditions placed upon it in the last planning application (APPLICATION 14th September 2011, 4/01070/11/FUL) - as a boatyard - and this current application is a simple attempt to change the

use of the space, I would guess to a more residential than industrial nature. Approval of the application would clearly be bypassing open development control and leading to 'condition creep'.

#### Flat 1 Canalside, Mark Granger

Object - summary below:

- I would strongly suggest that the glazing certainly should be considered as constituting a development as to glaze over the openings covered by the shutters would definitely and obviously affect the external appearance of the building and be a fundamental change to effectively prevent the building from being used as a boathouse therefore going against the obvious intention of the original application.
- The Boathouse at present when viewed from the canal at present with its metal shutters has an obvious industrial presence in keeping with its original purpose and design. This is I suggest an intrinsic feature of the original design and purpose of structure. Therefore to remove the shutters and replace them with glass windows would result in a building that looks like any other residential building, which I suspect is the end goal of the owner. Further, the original building on the site had identical openings and these were replicated in the new version of the Boathouse, therefore as an intrinsic part of the original design one can infer that the openings existed as an essential part of the operation of the premises when it was in use as a Boathouse. Whether this would have been to provide additional access from the canal or essential ventilation when building and maintaining craft is unclear. However the fact that this was a significant feature of the original building and it's replacement would seem to provide proof that the shuttered openings are essential and required for the building to be used for the purpose it was built for. Therefore if the openings were to be filled in with glazing then it would fundamentally change the character and preclude the building from being used as a boathouse in the future. That being said, I would suggest that this provides evidence that glazing would certainly constitute a development and is certainly a significant alteration to the external appearance of the premises and therefore a planning application should be required to provide authorisation for the changes.
- To this end I would suggest that the council reconsider the certificate of lawful development that was granted under ref. 4/00186/16/LDP which would seem at odds with the facts that this would go beyond 'internal alterations within a building' and would form a material change to external appearance of the building and in turn be a cause of harm. This is obvious when you consider the significance, scale and coverage of the change which is being made to the buildings external appearance.
- I accept that the site has not been a hive of activity however this is likely due to how it has been marketed and perhaps to a lack of interest on the owners part. Therefore it should not be said that because it has seen little use that it could not be a valued community assets.
- Moving on to NPPF 12, Conserving and enhancing the historic environment while I fully accept that this is a modern building and that with hindsight more should have been done to conserve the previous boathouse that regrettably was beyond saving. However I would suggest that the current building actually fulfills the same function and therefore essentially functions as a heritage asset and is an irreplaceable resource which should be conserved in line with NPPF 12, 126 and that the proposed changes would not be in line with point c, and d.
- To this end I would suggest that the function of the building is the asset and that the application does not provide any substantial public benefit or indeed any benefit at all for any anyone other than the applicant. After all as NPPF point 169 inferred, this may well be a future heritage asset and therefore should be considered worthy of protection. Given that

the original building was lost I would point out that point NPPF 12, 136 should be carefully considered as justification for refusing the application. Given that the Planning application as I have stated repeatedly will both prevent the business from being a boatyard and clearly alter the character and appearance of the building it is hard to see how granting this application or failing to continue to oppose the appeal would be in line with the policies set out in the NPPF and the NPPG.

- The application should also be considered in light of the complaints made by objections to the application that the property is now being used as a gym by the owners "employees" or children and that this usage has been responsible for a significant amount of noise and disturbance to an area that previously enjoyed peace and quiet. This application will only make the building more desirable for this use and the resulting disturbance. Therefore it is hard to see how granting this permission would be making a positive contribution to the local character and distinctiveness ( NPPF 12, 131c)
- When considering the application it is also worth remembering that the original application was granted for the site on the condition that the application included a separate and working Boathouse. And therefore the application would not have been acceptable to the council if the Boathouse had not been included in the application. Therefore given the nature of the changes the glazing would create to affect the original character of the building and therefore it's usage then it should be rejected as it is clearly contradicting the original conditions placed on the premises by the Development Control Committee.
- Therefore for the reasons that I have stated at some length I would suggest that the application should be rejected as it clearly seeks to undermine the very clear conditions laid down for the premises in 4/01070/11/FUL and is an obvious attempt to begin to convert the premises into a residential property. The objections are well founded and supported by policies and therefore I would suggest that a rejection of the application 4/03310/16/FHA is obviously called for. To this end I would also urge you to continue to vigorously oppose the appeal that the applicant have already put forward as it is obviously without any merit as I indicated earlier in this objection. I am sure that the original decision by the council would be upheld and the appeal rejected.

## **Considerations**

The key considerations in the assessment of this application are considered to be: the impact of the proposed works on the permitted use of the building; the impact of the proposals on the appearance of the building; the impact of the proposals on the character and appearance of the Conservation Area; the impact of the proposals on the canalside environment; and the impact of the proposals on the amenities of the surrounding residential properties.

### Application Background/Context

#### *Original Permission*

The site forms part of the redeveloped boatyard on the canalside in Berkhamsted under the original planning ref 4/00804/10/FUL and the amendments under 4/01070/11/FUL.

Application 4/00804/10/FUL granted planning permission on 17/11/10 for: 'Demolition of boat shed and construction of new boathouse incorporating a residential unit and separate block of two flats, restored slipway and associated parking'. Application 4/01070/11/FUL granted permission for an amended scheme for: 'Construction of new boathouse with restored slipway incorporating one dwelling with associated parking (amended scheme)'.

The application was subject to a number of planning conditions; one of which, condition 5 stated: '*The boathouse, associated works and slipway hereby approved shall be used solely as*

*a boatyard for commercial purposes and at no time shall it be used for any other use or purpose.'* This was to ensure the modest ancillary commercial boatyard remained in use as such, which was an important element of the scheme which was granted. Condition 1 removed permitted development rights for windows and other openings and stated: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending or re-enacting that Order with or without modification) no windows, dormer windows, doors or other openings other than those expressly authorised by this permission shall be constructed without the prior written approval of the local planning authority.'* This was to protect the residential amenities of neighbouring properties.

#### *Fallback Position*

The proposed development must be seen in the context of the fallback position established by the Lawful Development Certificate granted in March last year, application ref 4/00186/16/LDP. This certificate confirmed that clear frameless glazing inserted into the three existing openings would be lawful and would not require planning permission, as the proposals would not constitute development.

#### *Refused Lawful Development Certificate*

Following the granting of the Lawful Development Certificate referred to above, a further Lawful Development Certificate application was submitted in July, which proposed an amended glazing scheme. This involved timber framed glazing with timber glazing bars and cill detailing. This application was refused in September 2016 for the following reason:

*'It is considered that, on a balance of probabilities, the operations covered by the certificate constitute development which would result in a material impact on the appearance of the building, and, as such, would not be lawful. The works would require planning permission'.*

The refusal of this Lawful Development Certificate led to the applicant making the decision to submit a planning application for the same scheme.

#### Policy and Principle

The site is located within the urban area of Berkhamsted wherein the principle of alterations to commercial and residential buildings is acceptable in principle under Core Strategy Policy CS4.

#### Impact on Permitted Use of Building

It is acknowledged that the impact of the proposals on the permitted use of the building as a commercial boat yard is an emotive subject with local residents, as evidenced by the objections that have been submitted by a number of local residents and Berkhamsted Citizens Association. Officers are acutely aware of this sensitive issue and have carefully assessed the proposals in this context accordingly. The assessment process has included numerous meetings with both the agent and the applicant as part of a proactive period of negotiation, with a view to ensuring that the proposed works would not prejudice the permitted use of the building. Negotiations have also sought to ensure that the proposals result in the most appropriate and sympathetic scheme possible, given the use of the building, the historic context of the site and the canalside environment.

Both the case officer and the Conservation and Design officer are suitably satisfied that the modest alterations to the building proposed as part of this application will not prejudice the permitted use of the building as a commercial boat yard.

#### Effects on appearance of building



The scheme has been subject to negotiation with the Council's Conservation and Design team. As a result of the negotiations the scheme has been amended to improve the fenestration, framing and glazing bar details to better reflect the industrial heritage of this canalside site (please see a more detailed analysis below). As a result it is considered that the proposed development would sit comfortably on the canalside elevation of the building and would be sympathetic to the character and appearance of the existing building. As a result the proposals would comply with Core Strategy Policies CS11 and 12.

#### Impact on the Conservation Area

Core Strategy Policy CS27 states that: *'All development will favour the conservation of heritage assets. The integrity, setting and distinctiveness of designated and undesignated heritage assets will be protected, conserved and if appropriate enhanced. Development will positively conserve and enhance the appearance and character of conservation areas.'*

Policy 120 requires new development in conservation areas to be carried out in a manner which preserves or enhances the established character or appearance of the area. In particular to this site, new development should use materials and design details traditional to the area and complement its character and be of a scale and proportion which is sympathetic to the scale, form, height and overall character of the surrounding area. These policy objectives are further supported by guidelines provided in the approved Supplementary Planning Guidance (SPG) Section 7 for development in Conservation Areas.

The canalside environment is identified as a particular area within the Berkhamsted Conservation Area Character Appraisal as part of the Supplementary Planning Guidance. Under section 5.2 of this guidance it is stated that the quality of the canalside residential areas is crucial to the overall value of the conservation area. Enhancement Priorities, at para 5.2.3, are fourfold:- improving the appearance of detail on residential properties; improving the appearance of unmade roads in the area; canalside views of any redevelopment sites; and providing appropriate canal related facilities.

The scheme has been subject to negotiation with the Council's Conservation and Design team. As a result of the negotiations the scheme has been amended to improve the fenestration and framing details to better reflect the industrial heritage of this canalside site. The conservation officer's comments on the amended scheme are set out below:

*'The boatyard structure sits adjacent to the canal within the conservation area and there are a number of locally listed buildings nearby. The proposal would be seen within the wider character of the canal side setting.'*

*'We would have no objection to the principle of glazing the window openings behind the shutters. This would have a limited impact on the character of the canal. We welcome the set back of the windows which would be in keeping with the historic character of canal side buildings and believe that the amended design and materials proposed now reflects the industrial character of canal side buildings. This would be appropriate and in keeping with the conservation area and the character of historic development along the wider non-designated heritage asset of the canal.'*

*'Recommendation We would not object to the proposals and believe that the amended proposals ensure that the industrial character of the canal site is maintained.'*

Given the improvements to the scheme it is considered that the proposed fenestration to be inserted into the existing openings, behind the existing shutters, would have no significant adverse impact on the character or appearance of this part of the Berkhamsted Conservation Area. As such it is considered the proposals are in compliance with Core Strategy Policy CS27 and Saved Local Plan Policy 120.

The proposed development must also be seen in the context of the fallback position established by the Lawful Development Certificate granted last year, application ref 4/00186/16/LDP. This certificate confirmed that clear frameless glazing inserted into the three existing openings would be lawful and would not require planning permission, as the proposals would not constitute development.

#### Impact on the Canalside Environment

Saved Local Plan Policy 106 states that: *'Development adjoining the Grand Union Canal will be expected to make a positive contribution to the canalside environment. As such, the design, scale and materials of new developments and canalside facilities must be appropriate to the environmental and historic character of the canal, and have no adverse impact on its nature conservation interest. Important views both to and from the canal should be retained.'*

*The retention of original canalside buildings and structures, such as locks, bridges, lock cottages and pumphouses, will be encouraged. Development proposals which seriously affect their character and the contribution they make to the canalside environment will be refused.'*

As stated above, given the improvements to the scheme it is considered that the proposed fenestration would have no significant adverse impact on the character or appearance of the canalside environment in this part of the Berkhamsted Conservation Area. As such it is considered the proposals are in compliance with Core Strategy Policy CS27 and Saved Local Plan Policy 106.

#### Impact on Neighbours

The proposals would not result in any significant adverse impact on the residential amenities of the neighbouring properties. The proposals involve the insertion of windows in the three existing openings on the canalside frontage. These windows would be set back behind the existing shutters. They serve a commercial building, and so the 23 metre residential guideline would not apply. However, despite this, they would be located 23 metres away from the rear facing windows on the Station Road properties located on the opposite side of the canal, beyond the towpath.

As stated earlier, the proposed development must also be seen in the context of the fallback position established by the Lawful Development Certificate granted last year, application ref 4/00186/16/LDP. This certificate confirmed that clear frameless glazing inserted into the three existing openings would be lawful and would not require planning permission, as the proposals would not constitute development.

The proposed development would not result in any loss of privacy or overlooking of surrounding residential properties, and would be in compliance with Core Strategy Policies CS11 and CS12.

#### **Conclusions**

Both the case officer and the Conservation and Design officer are suitably satisfied that the modest alterations to the building proposed as part of this application will not prejudice the permitted use of the building as a commercial boat yard.

The scheme has been subject to negotiation with the Council's Conservation and Design team. The scheme has been amended to improve the fenestration and frame details to better reflect the industrial heritage of this canalside site. As a result it is considered that the proposed development would sit comfortably on the canalside elevation of the Boathouse and would be sympathetic to the character and appearance of the existing building, the conservation area

and the canalside environment.

As such the proposals would be in compliance with policies CS11, CS12, CS27 of the Core Strategy, together with saved policy 106 of the Local Plan.

**RECOMMENDATION** - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 No development shall take place until details of the materials to be used in the construction of the framing and glazing hereby permitted have been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection.**

Reason: To ensure a satisfactory appearance to the development, and in the interests of the visual amenities of the Conservation Area.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

Reason: For the avoidance of doubt and in the interests of proper planning.

544 07B elevations  
749 08  
749/14a  
749/15a proposed elevations

#### Informative

The applicant is advised to contact the Canal & River Trusts' works planner, Osi Ivowi, on 01908 302 591 to ensure that the work complies with our 'Code of practice for works affecting the Canal & River Trust'.

#### Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.