

Date of Meeting	28 August 2014
Application Number	14/05287/FUL
Site Address	Wiltshire Council Depot, Lower Wharf, Devizes
Proposal	Change of use from Council Services Depot to recreational use for Devizes Canoe Club. Creation of a launching site at canal edge. Conversion and alterations to existing building to include new door and window and Solar PV panels to roof. Erection of a boat store, shower/changing facilities and associated lighting and security fencing
Applicant	Devizes Canoe Club
Town/Parish Council	DEVIZES
Ward	DEVIZES NORTH
Grid Ref	400147 161708
Type of application	Full Planning
Case Officer	David Cox

Reason for the application being considered by Committee

This application is called to Committee by Councillor Evans in the interests of debate on access, highways and ecology issues and to consider the impact on neighbouring uses.

1. Purpose of Report

To recommend that the planning committee grant planning permission subject to appropriate conditions.

2. Report Summary

The key issues for consideration are:

- Principle of the development, including impact on heritage assets;
- Highway matters;
- Amenity issues;
- Ecology;
- Contamination

3. Site Description

The depot currently consists of a single storey brick outbuilding that is bounded by Wadworth Brewery, the Canal and a private road. It is accessed from Lower Wharf which is a single lane road off Northgate Street adjacent to the former Assize Courts building that serves residential dwellings in the former Bluemay building and businesses. The Council

currently operates some of its parking vehicle fleet from the depot. The application site is within the Devizes Conservation Area. Two listed buildings are nearby but their settings do not directly relate to the proposed application site.

4. Planning History

Relevant planning permissions include:

K/84/1109	Relocate and enlarge cask washing, racking and store area and construct warehouse (adjacent site)
K/51371/F	Conversion of former Bluemay works to 8 flats (Lower Wharf)
E/2011/1407/FUL	Change of use to residential and community use of the vacant Assize Courts, requiring the remodelling of sections of the SW & NE elevations, and internal stairs. Creation of new window openings, dormers and rooflights. Provision of new upper floors to the Jury and Court Rooms for proposed residential accommodation. (not yet implemented)
E/2012/1118/CAC	Demolition of buildings relating to former garage use of site.

5. The Proposal

The proposal is to change the use of the depot from Council Services to recreational use for Devizes Canoe Club. The proposal also includes the creation of a launching site at the canal edge for canoes/kayaks and alterations to the existing depot building to insert a new door and window and solar panels on the south facing roof slope. The depot building would be used for general storage, kitchen and meeting room. A boat storage building (modular racking within a removable 'cage' structure) and a portacabin for changing room purposes would be erected within the existing fenced compound. Two Council metal containers would be removed from the site. The proposal also includes the erection of six steel 730mm tall collapsible bollards to prevent car parking on private land. The bollards will be operational by key. Within the enclosed area will be 4 car parking spaces and a turning area. The applicants have offered the owner of Canal Forge access to keys to operate the bollards for his own needs.

6. Planning Policy

Kennet Local Plan 2011 – PD1, ED22 and NR4 are relevant policies.
Emerging Core Strategy – Core Policy 12 and the regeneration opportunities at the Wharf and Assize Courts is recognised in paragraph 5.65.

National Planning Policy Framework.

7. Consultations

Devizes Town Council – No objection.

Devizes Area Board – Support.

Wiltshire Council Highways Officer – Following receipt of the revised transport Plan – No objection.

Wiltshire Council Ecology Officer – Following receipt of the Ecology Report – No objection.

Wiltshire Council Environmental Health Officer – Following receipt of the Contamination Report – No objection.

Environment Agency – No objection, subject to an informative relating to pollution prevention during construction.

Wiltshire Council Estates Officer – The depot has been surveyed by the Estates team and can confirm that the proposed buildings will fit in the site, allowing for a 2.2m strip to be reserved for a footpath parallel with the canal.

Wiltshire Council Leisure Officer - Leisure Services supports the planning application as it upgrades sports facilities and offers more opportunities for more people to be active and therefore contributes to Wiltshire Council's desire to make Wiltshire the healthiest County.

Canal and River Trust – No objection subject to informative.

Kennet and Avon Canal Trust - Strongly Support the application.

Trust for Devizes - applauds this development of the canal facilities following the Community Asset Transfer agreed in December 2013. This is seen as a positive move and further develops the recreational use of the historic canal whilst tidying up the canal bank side area making the approach to Devizes a more attractive prospect. As the development progresses we would expect that the planning authority would seek assurances from the users of the revitalised facility, that there is no impediment to the rights-of-way or access along this stretch of the canal side enjoyed by the other property owners; an important requirement to ensure the reinstatement of the tow path walk way on the side of the canal where the launch site is to be placed. Furthermore we would expect the users to be mindful of the difficult access to the adjoining properties and that the owners of these premises will not be impeded by boat trailers or parking which would restrict access to their land and properties.

Wiltshire Police – Support.

British Canoeing – Support.

8. Publicity

The proposal has been advertised via site notice and neighbour notification.

As a result of the publicity, letters of objection and support have been received. These are summarised below. In addition, a petition with 78 signatures has been received. This Petition stated that the Canal River Trust must maintain moorings, a third slipway into the canal is unnecessary, this proposed slipway is unsuitable and will become congested and harm would be caused to the water vole population.

In relation to objections, 43 letters of objection have been received including 7 from one person and two from another. Eighteen letters have been received from residents of Anstie Court (McCarthy and Stone development). The objections can be summarised as follows:

(a) Principle of Development objections:

- The Council should consider the interests of the inhabitants of Lower Wharf and not just a small club.
- This application is made and supported by non Devizes residents and is of zero benefit to Devizes. It will not be of any community benefit.
- There would be a lost mooring space due to this proposal.

(b) Canal use objections:

- Why not continue to use the existing slipways?
- A slipway at the wharf will result in a large number of people, plus canoes and vehicles and friends and family, congregating in a very small area. This is too much to ask of people who live and work in the area. The noise, litter and congestion will be very disruptive and dangerous.
- The waters will be congested with the increase in boat hire

(c) Highways objections:

- Concerned about traffic and noise. 4 car parking spaces is not enough.
- Unsuitable location for a canoe club.
- Access from the main road into Lower Wharf is unsafe.
- Cars are unable to turn around in Lower Wharf. They would then have to back out onto the main road.

(d) Footpath objections:

- Concerned about security to new dwellings on the ground floor of the McCarthy and Stone development (Anstie Court) from the new footpath access across the canal.
- A footpath would completely undermine the electric gates, security cameras and alarm system residents pay service charges for.
- A footpath would harm ground floor privacy to Anstie Court.
- What is wrong with the footpath on the other side of the Canal?
- Oppose any new fence to be built to be built alongside Anstie Court. People will climb and look over.
- A footpath will severely de-value the Anstie Court properties.
- A footpath will destroy the peace and tranquillity of the area.
- The use of the footpath as a cycle path is even more alarming.

(e) Ecology objections:

- Canoes will harm further Vole habitat as the canal is fail along the Lower Wharf.

Three letters have been received from Canal Forge (adjacent the application site).

- In principle no objection to the proposal.
- The 1985 application for a proposed gate and fence across the roadway at Lower Wharf was refused.
- The 1985 application added a condition that a turning bay to allow vehicles to turn should be maintained alongside Canal Forge.
- The Canoe Club proposed to erect bollards which will block off the turning space which will contravene the condition.
- There would be insufficient parking for Canoe Club members. This will result in dangerous reversing and parking on private land.
- A condition should be added to require adequate 'No parking' signs.
- As the footpath to the car park doesn't exist how can they ensure that members walk to the site?
- The Canoe Club suggests that they would off load with 10-15 trailers, this will cause chaos.
- The barriers and chain fence will create a territorial compound zone.
- The barrier will be very unsightly.
- The offer of a key for me to use the drop barrier is unacceptable. I cannot be there at all times to allow out of business hours traffic to turn.
- My business will be harmed if my parking is used by Canoe members.

- A complete access footpath along the canal bank is vital to the success of the proposed scheme.

In relation to support, 36 Letters have been received, making the following points:

- This application is critical to the Club's survival as it has no access to changing facilities, very limited access to toilets at the wharf, an unsuitable launching site at one of the busiest points on the canal and completely inadequate storage.
- The application promotes mixed residential, commercial and leisure use, so any future development will inevitably increase footfall and traffic.
- The level of increased traffic proposed is modest and will have significantly less impact compared to other potential uses of this site.
- The application promotes many of the Council's priorities in terms of tourism and leisure opportunities using the canal and it actively supports the redevelopment of the wharf conservation area.
- The club has been instrumental in working with people of all ages in developing canoeing and kayaking in the local area. They work with a wide range of young people including those at risk of offending and causing anti-social behaviour.
- The club work to high standards in both delivery and their management and have received the National Award of Clubmark in recognition of these practices and their commitment to the local community.
- The Canoe Club has introduced hundreds of local people to the sport and recreation of canoeing, which has real benefits in terms of health and wellbeing for people of all ages.
- The Club cannot continue to function in its present facilities which are just two boat stores and some informal outside boat storage.
- The current facilities do not allow for changing so members have to get undressed in the street.
- This will improve the appearance of the conservation area and will prevent it from falling into disrepair.
- A good working canal is good for tourism and trade.
- Members are usually out of the water by 8pm.
- This is an important canoe club in Southern England. The team members and staff are significant to national events. This also encourages the local community to take part.
- In the last two years, Devizes Canoe Club has achieved the highest number of club entries to the annual internationally recognised Devizes to Westminster Canoe Marathon, in the country. All of these paddlers are from Devizes and the surrounding areas.

9. Planning Considerations

9.1 Principle of Development:

The starting point is the development plan policies that relate to this site. In the Kennet Local Plan, this area is identified in policy ED22 as 'Area B' where development should *'build upon the scale and pattern of existing development and provide for the retention and refurbishment of existing listed buildings and other good quality buildings in the area and improve access to the canal and provide canal based employment opportunities.'*

The supporting text to this policy (paragraph 3.46) indicates that the Council would like to *'promote uses at Lower Wharf that highlight the tourism and leisure opportunities presented by this location adjacent to the canal.'*

This proposal is in line with the thrust of this policy. It provides for the retention and refurbishment of a good quality building (the brick and tiled former depot building) and improves access to the canal for leisure opportunities by providing a launch site for canoes and kayaks for a local community group, as well as providing a base from which the canoe club can operate from.

The site is also within the Devizes Conservation Area, so special regard must be had to the desirability of preserving or enhancing the character or appearance of the area. This proposal secures the retention of the existing depot building and offers the potential to enhance the canal bank in this area and bring it back into a more active use directly related to the use of the canal. The modular building and kayak store are not intrinsically attractive, but will replace the existing steel containers, meaning that any impact is muted and will preserve the character and appearance of the area. The Assize Courts is a Grade II* listed building and the Wadworth's Brewery Grade II listed building, but these small scale works will not adversely affect their settings or character.

The principle of the development is therefore considered acceptable, subject to matters such as highway issues and ecology being suitably dealt with. These are dealt with below.

9.2 Access and Impact on Highway Safety:

The access from Northgate Street onto Lower Wharf is initially wide enough for two cars although it is acknowledged that the road quickly narrows to a single lane. Nonetheless the access is wide enough for two cars to pass each other and the visibility in both directions onto Northgate Street is acceptable.

The use by the Council involves three permanent members of staff based at the depot, with upto 4 additional people at other times. There are currently two Wiltshire Council vehicles based at the site which frequently leave and return to the depot during any given day. When there were meetings the site can get quite busy. The canoe club could have a similar use, although the number of trips on a Saturday or weekends with junior coaching sessions would be more than the normal Monday-Friday operation currently conducted by the Council. Additionally some of the vehicle trips will involve the towing of a trailer but as visibility is good in both directions and Northgate Street being 30mph, it is considered that the access from Lower Wharf onto Northgate Street is acceptable. It is also submitted that the traffic on Lower Wharf would also be acceptable without undue highway safety harm.

Vehicles on Lower Wharf would have to pass Assize Court where the yet to be implemented permission of application E/2011/1407/FUL will have pedestrian access for 6 of the 18 flats off Lower Wharf. This permission expires on 1 May 2015. Whilst it is acknowledged that pedestrians of these 6 flats would have to share the single lane road with vehicles, cars would be travelling fairly slowly at this point and visibility is quite good along the road and therefore Highway safety of the occupants of the 6 flats should be acceptable. Assize Court has no car parking and therefore the Canoe Club will not be in conflict with cars associated with Assize Court.

Further concern has been raised in regards to turning at the end of Lower Wharf and car parking problems that currently exist. There is an informal turning area alongside Canal Forge, which is a business that uses this turning space for its deliveries. It is understood that other vehicles also use this space in which to turn. However, the K/84/1109 application conditioned that a triangular piece of land in front of the former 'Cellar Services Department' should be used as a turning area and no formal turning area was ever allocated between Canal Forge and the Depot. Therefore the owners of the proposed 'turning space' in this application (which is understood to be Wadworths) could in theory erect a barrier without the

need for planning permission to prevent any turning in this space between Canal Forge and the Depot.

However, it is understood that this area of land will be transferred to the Canoe Club which allows for this turning space to be formally allocated, but controlled by the bollards. This turning space will allow for cars with trailers to be able to turn and leave the site in a forward gear, which is encouraged. The applicants have also invited the owner of Canal Forge the option to have a key so he can operate the removable bollards during the working day to allow for any of his business vehicles to arrive and use the turning space. For the avoidance of any doubt, there has never been any formal or conditioned provision of a turning space between the Forge and the Depot. Therefore this proposal to create a new turning space and allow the owner of Canal Forge a key to control its use is considered to be a benefit to highway safety.

The Council's Highway Officer has no objection to the proposal and in these circumstances, refusal on highway grounds would not be justified.

9.3 Impact on Neighbouring Amenity:

The existing Depot is still used by Wiltshire Council and Lower Wharf has vehicular traffic from staff entering and leaving the site as well as Wiltshire Council business vehicle traffic. Furthermore there is also business traffic to Canal Forge that is immediately adjacent to the application site.

The submitted Traffic Management Plan acknowledges that during organised club sessions, the level of activity will be quite high but this would be mitigated during the low levels of traffic in a normal working week. Essentially the difference will be that noise and disturbance will be transferred from weekdays to mostly weekends.

It is important to note that the club will only have 4 on site car parking spaces and will have limited room to tow in and turn any trailers. This is why it is been important for the club to have a large storage building; to allow more members to leave their Canoes on site. The majority of Canoe Club members will have to park in other publically available spaces in the main car parks in the town. The Management Plan has made it clear that outside of the 4 spaces the club will provide itself, no other car parking in Lower Wharf is available. The Management Plan states that there will only be approximately two trailer movements per week and also acknowledges that members will only have 5 minutes to tow in their canoes, turn and leave the site and this will be self enforced. With on-site storage, it is unlikely that there will be excessive trailer movement along Lower Wharf.

Whilst there may be some increased traffic movement at weekends, and pedestrian movement to access the site, it is not considered that this by itself, or the use of the site at weekends, will cause any unacceptable disturbance to residents of Lower Wharf.

9.4 Impact on Ecology:

Following the neighbour consultation responses, the applicants submitted a Phase I Ecology survey to assess the likely impact on Water Voles. The survey identified two burrows within the area to be used for the canoe slipway. However, evidence suggested that one of these burrows are used by rats. The survey also comments that the habitat is unlikely to support a large population of water voles since it lacks a variety of plants to provide a year round source of food. There were also no 'field signs' which would have suggested a high population of water voles present in the area. The Ecology report suggests that these 'field signs' would have been apparent if there was a high water vole population. The Council's

Ecology Officer has no objection to the application and it is therefore considered that no adverse harm would be caused to water voles.

The Ecology Report did not comment on the wider use of the canal for canoes on water voles. It is acknowledged that there would be some instances of canoes hitting the canal bank but it is considered that this would only be in the immediate area around the setting off point and the likelihood of harm to any other un-surveyed water voles burrows would be low.

9.5 Contamination Issues:

The initial consultation response from the Environment Agency raised concerns over the potential for contaminated land from the former gas works that are buried underneath the existing tarmac of the depot. However, the applicants submitted a desk top survey which is to the Environment Agency's satisfaction. The Council's Environmental Protection Officer also has no objection to the proposal.

The desk top survey concludes that in the depot area where the changing room and store will be located some site contamination is very likely. Historically, the most likely method for site decommissioning would have been to leave the gasholder base structurally intact and backfill it. The site would have then been capped with concrete and the surrounding area with macadam over the sub-base. Contamination of the gasholder base is therefore assumed to be at the base of the structure. There is no visible evidence of leakage of tar and other gasworks residues from the below ground structures associated with this site.

The changing room would involve a 150mm concrete slab set into the existing macadam surface. This would involve removal of the existing site cap to a depth of 200mm, blinding and resealing with a new concrete slab. There will therefore be a limited amount of excavation at shallow depth not exceeding 150mm on site before the replacement of concrete over any exposed ground. It is therefore considered that this represents a low and acceptable risk during any digging works and thereafter.

The application also proposes the construction of a launching platform with stepped sides to allow access to the canal. This particular area is outside of the Depot and outside of the footprint of the former gas works site. It is understood that the historic use was from 1827 when coal was delivered to serve the gas works.

The proposal involves excavation of the ground and removal of approximately 50m³ of arisings from the site. Whilst there is no evidence or suggested risk of contaminants arising from gas production at this site there is a possibility of historic coal dust contamination in the soil substrate. The area to the north of the existing roadway (which is subject to water runoff from the roadway) is an uncapped grassy bank that provides a fully permeable surface for rainwater and runoff. As this area has been substantially unchanged since coal deliveries via the canal which ceased almost 100 years ago, it is submitted that the risk of contamination within the 14 metre canal bank that will be excavated to a depth of 1.5 metres to construct the canoe access is very low. Even if there are contaminants the proposed wall and the clay lining of the canal will limit any contamination into the canal. There will be no disturbance to the existing canal lining, as this work has to be carried out in accordance with Canal and Rivers Trust requirements to ensure the integrity of the canal.

In these circumstances, the proposal is considered acceptable in terms of potential contamination issues.

9.6 Implementation of Council Policy for a footpath across Lower Wharf:

The proposal retains a 2.2 metre strip between the timber fence that adjoins the canal and the kayak store for the potential future provision of a footpath, as envisaged in the Kennet Local Plan. This strip will not be included in any asset transfer and will be retained within Wiltshire Council control for the present.

Eighteen neighbour consultation responses have raised concern over the proposed footpath link between Lower Wharf and Devizes Wharf, many of which believe that this application includes the actual footpath across both Wharfs. Firstly this application is not for the footpath, it only provides space for one to be created in front of the application site. Furthermore, the creation of a footpath is dependent on adjacent land becoming available and would be subject to a further planning application for a change of use to public footpath.

Nonetheless, the intention to create a footpath has long been a (formally) Kennet District Council and Wiltshire Council Policy to link Devizes and Lower Wharfs together. These policies have been through extensive public consultation and therefore the merits of the Policy cannot be considered in this application. The issue to consider is to ensure that the option and potential future provision of the footpath is not lost by this proposal.

10. Conclusion

The proposal would provide a long term home for the Canoe Club in a sustainable location within Devizes. The proposal is in accordance with the policies of the Kennet Local Plan and would not result in any unacceptable adverse impacts that would justify refusal of the proposal. Accordingly, planning permission is recommended.

RECOMMENDATION

Grant planning permission, 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 provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The depot shall not be first brought into use by the Canoe Club until the turning space has been laid out in accordance with the approved plans. The turning space shall be kept free from any obstructions at all times.

REASON: In the interests of Highway Safety.

3. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of a written report to be submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. Where remediation is necessary, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works

the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4. All spoil from the digging works for the changing rooms and the new canal slipway shall be removed from the site.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

5. The development shall be constructed in strict accordance with the recommendations at Section 7 – Mitigation, in the Water Vole Survey, Kennet & Avon Canal, Lower Wharf, Devizes, July 2014 by Chalkhill Environmental Consultants.

REASON: In the interests of protecting protected species.

6. The development hereby permitted shall be carried out in accordance with the following approved plans:

Design and Access Statement – Received 27 May 2014

Site Location Plan – Received 27 May 2014

Existing and Proposed North and West Elevations - Received 27 May 2014

Existing and Proposed East and South Elevations - Received 27 May 2014

Groundworks and Services Layout - Received 27 May 2014

Proposed Changing Room Elevations - Received 27 May 2014

Proposed Kayak Store Elevations - Received 27 May 2014

Canal Access Point – Proposed Section A-A - Received 27 May 2014.

Canal Access Point – Proposed Section B-B and C-C - Received 27 May 2014.

External Lighting Plan - Received 27 May 2014

Revised Traffic Management Plan V3 – Received 24 July 2014

Revised Existing Site Plan – Received 7 August 2014

Revised Proposed Site Plan – Received 7 August 2014

Revised Existing Internal Plan - Received 7 August 2014

Revised Proposed Revised Plan - Received 7 August 2014

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

Informative

1. The applicant is advised to contact Susie Mercer, Business Boating Manager on 07795 027366 in order to ensure that any necessary consents or agreements are obtained and that the works comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust”.

2. The applicant is advised that safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery

- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

The applicant should refer to the Environment Agency's Pollution Prevention Guidelines at:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>