

Application Recommended for Delegation

APP/2013/0020

Bank Hall Ward

Full Planning Application

Proposed cover to dry dock to provide boat port; together with use of adjoining land as a yard, in connection therewith, for boat maintenance, repair and fabrication and any incidental purpose.

DRY DOCK BANK HALL COLLIERY OFF COLNE ROAD BURNLEY

Background:

The application relates to a dry dock within the canalside conservation area.

An objection has been received.

Summary of Reason for Recommendation:

The development is generally in accordance with the Development Plan, in particular the policies listed below, and there are no other material considerations to indicate that planning permission should not be granted:

Relevant Policies:

Burnley Local Plan Second Review

E12 - Development in or adjacent to Conservation Areas

E3 - Wildlife links and corridors

E7 - Water bodies and water courses

EW3 - New Leisure, Tourist, Arts and Cultural Development Outside Town Centres

GP7 - New Development and the Control of Pollution

GP3 – Design and Quality

TM15 - Car parking standards

National Planning Policy Framework (NPPF)

Site History:

TP11607: Change of use from operational Coal Board land to amenity open space and recreation area – Granted (1973) [*Related to the whole of the former Bank Hall Colliery land*]

79/0002: Erection of Canoe Centre – Granted [*Lancashire County Council development of part of present application site, but not including the dry dock itself*]

86/0571: Formation of car park for floating bar/restaurant to be moored in disused dry dock - Granted

2008/0105: Proposed change of use from a storage building to a youth and community centre and the erection of a 2.4m high pallisade fencing - Granted

Consultation Responses:

Highway Authority – No objections.

Canal & River Trust – Whilst having no objections in principle has requested further details about how the dock would be closed and how water pollution would be avoided. [*There is on-going discussion of these matters and the outcome will be reported at the meeting*].

Friends of Bank Hall Park – Object to the proposal as follows (summarised):

- The area should retain its present leisure use designation, which is more compatible with the adjacent park.
- The area has become a wildlife haven and habitats would be harmed by the proposal.

Burnley Wildlife Conservation Forum - Comment on the application as follows (summarised):

- The dry dock is close to the larger wharf which is an important wildlife habitat, in particular there is a traditional nesting site for a pair of Mute Swans at the entrance to the wharf from the canal.
- The concern is that the breeding site may be disturbed and if the application is granted it is requested that a condition be imposed requiring due sensitivity to the habitat during construction and operation of the facility.

Ecology Advice (Lancashire County Council) – As follows (summarised):

- An ecological assessment should be undertaken to assess likely impacts on habitats and protected and priority species (eg bats, water voles and breeding birds).
- Vegetation clearance should be avoided in the bird breeding season (March-August inclusive) unless the absence of nesting birds is confirmed by inspection.
- External lighting should avoid excessive spill and not illuminate potential bat habitat (eg canal, trees) and bird breeding places.

[Comment – This advice is helpful in informing the development. However, the dry dock is an existing feature, the repair of which would not involve development. A condition is recommended requiring investigation of species and habitats (and any necessary provisions) before the building is erected

Planning and Environmental Considerations:

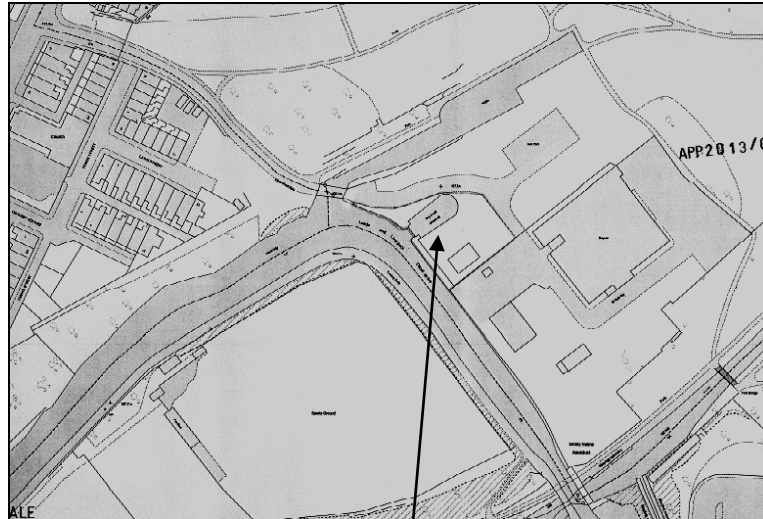
The application relates to a disused dry dock with a rectangular area of land attached.

The dock opens directly to the Leeds and Liverpool Canal and was originally used for maintenance of barges in connection with Bank Hall Colliery coal transportation.

Following the colliery closure, the extensive Bank Hall colliery land was acquired by the Council and planning permission was granted for use as amenity open space and recreation.

A Canoe Centre was built by Lancashire County Council on part of the present application site, not including the dry dock.

For a short period in the 1980s the dry dock was used for the mooring of a floating restaurant/bar, after which it has been disused. Security fencing was erected in 2008.



Application site

The present proposal is to bring the dry dock back into its original use, making it an effective canal boat repair facility by encapsulating it in a purpose designed portal frame building.

The building would be clad in profiled metal sheeting in a colour to be agreed. There is on-going discussion about the final details of the building which should be available at the meeting.

The associated land would be used as hard standing for boats, equipment and car parking. The existing security fence would be retained. A final layout drawing is awaited. This should include details of tree retention and additional landscaping.

Policies and assessment

Policy EW3 allocates the application site, as part of a wider area, for canal related leisure uses.

Adjoining land was granted permission as a permission as a Skateboard Park in 2003, but has now returned to employment use after 2009 with the grant of permission for a range of industrial and business use.

The proposed use would provide essential facilities for the maintenance of canal leisure craft. It would bring economic activity and vitality into this part of the Bank Hall area, adding interest to the wider parkland scene. On that basis it would be in line with the policy.

Policies E3 and E7, together, require that no harm should be caused to species and habitats, with enhancements where possible.

The historic dock basins at the edge of the Bank Hall Park are wildlife habitats of importance. However, the area is traversed by an access road to a small commercial area and a car park serving the park, together with footpaths serving the park. A road bridge crosses the wharf entrance.

The reinstatement of the dry dock to its original purpose, and its enclosure, would marginally reduce the water area to which wildlife has become accustomed, but it would bring the advantage of natural surveillance of the area, thereby, in turn, reducing the possibility of mischievous harm to species and habitats. A planning condition is recommended to help draw attention to the need for a due degree of sensitivity in this matter.

The **NPPF** sets a presumption in favour of sustainable development, requiring the planning system to an economic, social and environmental role. The present proposal is appropriately located, and would provide economic and environmental regeneration.

Other matters

Whilst the proposed use would be acceptable, non-canal related repair/industrial uses may be less so. A condition is, therefore, recommended to restrict any future change of use which may conflict with the development plan allocated leisure use.

Recommendation:

That provided details of design and appearance of the building, and layout of the site are acceptable the Head of Housing and Development Control be delegated to Grant permission subject to the following conditions:

Conditions

1. The development must be begun within three years of the date of this decision.
2. The development shall be carried out in accordance with the application details listed above.
3. Full details of the colour and profile of the wall and roof materials shall be submitted to and approved in writing by the Local Planning Authority before their use in construction of the building hereby permitted.
4. The land shall be used for purposes in connection with the boat port, relating to boat maintenance, repair and fabrication and any purposes incidental thereto and for no other purpose including any purpose within Class B2, B1 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order with or without modification.
5. Before the dry dock is first drained for use as a dry dock, a water pollution method statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include details of procedures to be carried out before every refilling of the dock with water, to prevent materials (including any soluble or insoluble substance) arising from processes carried out in the dock, in the adjoining yard or otherwise, passing into any canal, river or ground water. The procedures shall be carried out thereafter as approved.
6. Before the start of any work to the dry dock cover building:

- (a) an Ecology Survey (in accordance with a scheme having the prior written approval of the Local Planning Authority) shall be carried out in relation to protected and other species and their habitats;
 - (b) a Report of the Survey identifying any ecological impacts and making proposals for managing, mitigating or compensating therefor, shall be submitted to and approved in writing by the Local Planning Authority.
7. Proposals in respect of any ecological impacts approved for the purposes of condition 6 shall be carried out as approved.

Reasons

- 1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2. To ensure that the development remains in accordance with the development plan.
- 3. To secure a satisfactory development in materials which are appropriate to the locality, in the interests of visual amenity and in accordance with policy GP3 of the Burnley Local Plan, Second Review.
- 4. To enable the local planning authority to consider any future change having regard to Policy EW3 of the Burnley Local Plan, Second Review and any other material considerations.
- 5. To prevent pollution of the water environment in accordance with Policy GP7 of the Burnley Local Plan Second Review.
- 6. And 7. To safeguard habitats and species in accordance with Policy E5 of the Burnley Local Plan Second Review.

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Notes on description of the development

- *The dry dock is in existence. With minor repairs, not involving operational development, it is capable of use for that purpose. Basically, the dock is designed to be closed to entry of water from the canal by insertion of loose baulks of timber. It is drained by opening a portal into an underground culvert which grades down to the river to the east.*
- *TP11607 for change of use to amenity open space and recreation area did not remove rights to operate the dry dock.*
- *86/0571 was for formation of a car park in connection with the mooring of a restaurant. No change of use of the dry dock was described.*
- *Conclusion is that in order to enforce conditions on the operation of the dry dock it would be necessary to demonstrate that the use had been abandoned. Given the above it would be difficult to substantiate the four Denning tests of abandonment.*
- *On that basis the description should be 'Proposed cover to dry dock to provide boat port; together with use of adjoining land as yard in connection therewith'.*