

Taunton Deane Borough Council

Planning Committee – 18 April 2012

E/0257/08/04

CONSTRUCTION OF THREE JETTIES ALONGSIDE THE CANAL AT WATERLEAZE, MAIDENBROOK FARM, WEST MONKTON

OCCUPIER:

OWNER: BRITISH WATERWAYS
HARBOUR HOUSE, WEST QUAY, THE DOCKS
GLOUCESTER
GL1 2LG

PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice requiring the removal of three jetties each approximately 8m in length together with fencing and gates along the top of the canal bank on the canal side at Waterleaze, Maidenbrook.

RECOMMENDATION

The Solicitor to the Council be authorised to serve an Enforcement Notice and take Prosecution action subject to sufficient evidence being obtained that the Notice is not complied with.

The Enforcement Notice shall require:-

- the removal of the three jetties together with fencing and gates along the top of the canal bank.

Time for compliance: 2 month (however, the serving of the notice should be deferred until September 2012 to allow for British Waterways to remove the jetties as previously advised)

SITE DESCRIPTION

The site is located to the north east of Taunton. Waterleaze housing estate lies to the north, the Crown Industrial estate to the west of the sites and the Priorswood tip to the south of the canal. There are three timber jetties projecting out from the bank and into the canal with a fence and gate enclosure at the top of the bank.

BACKGROUND

An enquiry was received in August 2004 requesting information on the procedure to enable a jetty to be provided along the Bridgwater and Taunton Canal. It was then revealed that there were already three jetties located along the canal. The jetties were erected on the Canal some time ago without Planning permission or the permission of British Waterways as owner of the waterway. Numerous letters were sent to the owners and British Waterways to establish who was going to submit an application for Planning permission. An application was eventually submitted in 2008

by one of the owners, on behalf of all three owners, for the retention of the three jetties together with a fence and gate enclosure to each so that consideration could be given. This application was subsequently refused in February 2012.

DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL

Three jetties each approximately 8m in length with fencing and gates along the top of the canal bank on the canal side at Waterleaze, Maidenbrook. These were constructed on behalf of the property owners who fronted that section of the canal following informal discussions with British Waterways staff.

British Waterways are the owners of the canal and banks where the jetties together with fencing and gates have been constructed. Where the fencing and gate enclosure incorporate an area of land at the top of the bank they result in a change of use of land from public to private.

RELEVANT PLANNING HISTORY

Planning permission was granted in 1999 for residential development of land to the north of the Bridgewater and Taunton canal. The permission included the provision of public open space with informal walk ways and landscaping on the land between the houses and canal and this has now been provided on the site.

08/96/0021 – Residential Development including associated site works and vehicular access thereto and conversion of buildings to residential and leisure use at Maidenbrook Farm, Cheddon Fitzpaine permission granted 25th February 1998

08/1998/0015 – Erection of 70 dwellings with associated works at Maidenbrook Farm – details approved 15th November 1999

08/99/0008 – Erection of 50 dwellings, garages and construction of roads, sewers and other associated works at Phase 2 Maidenbrook Farm – details approved 30th March 2000

08/99/0009 – Erection of 59 dwellings, garages and associated works at Phase 2 Maidenbrook Farm – details approved 9th February 2001

48/08/0062 - Construction of three jetties alongside the canal at waterleaze, maidenbrook farm, west monkton, (retention of development already undertaken) - Refused February 2012

RELEVANT PLANNING POLICES

National Policy, Guidance or Legislation

National Planning Policy Framework

Taunton Deane Local Plan 2004

S1 – General Requirements

S2 – Design

EN22 – Development of areas affecting sites of County Archiological Importance

EN25 – The Water Environment

DETERMINING ISSUES AND CONSIDERATIONS

The land between the housing and the Bridgwater and Taunton canal was provided as landscaped public open space including a canal side walkway in connection with the residential development of the surrounding land. The jetties were constructed on behalf of property owners who fronted that section of the canal following informal discussions with British Waterway's staff.

The erection of gated, fenced areas at the top of the bank causes a visual intrusion into this open area which is out of keeping with and detrimental to the character of the area and interferes with its approved general public use. British Waterways are the owner of the canal and banks where the jetties and fencing/gates have been constructed and have raised objection commenting that the waterside jetties are unsafe and unacceptable. Local residents have objected to the retention of the jetties with concern from a resident that one of the jetties has been used late at night in the summer and having a detrimental impact on their amenity.

Following lengthy discussions, British Waterways have agreed to remove the unauthorised structures by August this year.

Where the fencing and gate enclosures incorporate an area of land at the top of the bank they result in a change of use of land from public to private which is contrary and detrimental to the leisure requirements of the existing Waterleaze residential estate public open space. Due to the length of time that has been taken for negotiations to date I consider that it is expedient to take enforcement action against the land owner, British Waterways with a compliance period that fits with the British Waterways programme of work (to be removed by the end of August 2012).

In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998

PLANNING OFFICER: Mr G Clifford
PLANNING ENFORCEMENT OFFICER: Mrs A Dunford

CONTACT OFFICER: Mrs A Dunford, Telephone 01823 356479