



Appeal Decision

Inquiry opened on 28 April 2009

Site visits made on 27 & 29 April and
1 May 2009

by **Alan Boyland** BEng(Hons) DipTP CEng
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an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
12 August 2009

Appeal Ref: APP/T2215/A/08/2088605 Pier Road, Greenhithe, Kent

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Greenhithe Marina (Management) LLP against the decision of Dartford Borough Council.
- The application Ref DA/06/01317/OUT, dated 26 November 2006, was refused by notice dated 2 May 2008.
- The development proposed is a marina located 195m offshore accessed from Pier Road.
- The Inquiry sat for 3 days on 28-30 April 2009 inclusive.

Decision

1. I dismiss the appeal.

Procedural matters

2. The application was submitted in outline with all matters except the means of access and siting reserved for subsequent consideration.
3. A Statement of Common Ground (SoCG) on highway and transportation (H&T) issues, agreed by the appellant and the Council, was submitted shortly before the Inquiry. A further SoCG, on planning issues and again agreed between the two main parties, was submitted at the Inquiry. I have had regard to these in coming to my decision.
4. On the application form the proposed marina is described as being about 160m offshore, but the Council's decision notice refers to it as about 195m offshore. It was agreed at the Inquiry that the latter figure is correct. For the avoidance of doubt the appellant submitted a further copy of the site plan amended (only) by inclusion of a scale bar to enable scaling of dimensions. Development in accordance with this plan rather than the one submitted with the application could be secured through a planning condition. I have considered the appeal accordingly.
5. In addition to the evidence and submissions presented at the Inquiry, I have had regard to a further written submission on behalf of the appellant. By agreement this was put in on the day after the close of the Inquiry in response to a legal point raised on behalf of the Council in its closing submissions. The Council confirmed at the Inquiry that it would not make any further submissions on the matter.

Main issues

6. The main issues are the effects of (land) traffic and parking arising from the proposed marina on:
 - i) The safety and convenience of users (including pedestrians) of roads in the area, particularly Pier Road;
 - ii) The living conditions of nearby residents; and
 - iii) The character and appearance of the Greenhithe Conservation Area.

Reasons

Policy framework

7. The statutory development plan for this area now includes the South East Plan (RSS 9) and the Borough of Dartford Local Plan (LP). At the time of the Inquiry publication of the RSS in its final form was understood to be imminent, and duly occurred on 6 May 2009.
8. Contrary to the appellant's assertion, I understand that the former Regional Planning Guidance (RPG) 9a: *Thames Gateway Planning Framework* was not part of the development plan as it was not given the status of a Regional Spatial Strategy¹. In any event, it has been replaced by the new RSS.
9. At the time of the Inquiry the Kent and Medway Structure Plan (SP) was part of the development plan with its policies being saved for 3 years from its adoption in July 2006². However, the 0294529062new RSS indicates (para 1.11) that they would cease to have development plan status when their 3-year saved period expired on 6 July 2009.
10. Many policies in the LP are saved by direction of the Secretary of State. It was agreed at the Inquiry that the Local Plan review, which was abandoned in favour of preparation of policy documents under the Local Development Framework, is not part of the development plan and carries very little weight.

Principle

11. The Council raises no objection in principle to a marina here. The planning SoCG records agreement that it 'would help to meet a long-standing aspiration to improve access to, and greater enjoyment of, the River Thames along the Dartford Borough river frontage'. A marina also has significant, though far from unanimous, support amongst the local community. Support in principle also derives from a number of policies.
12. RPG 9a encouraged recreational use of the Thames and indicated that one way forward is to provide opportunities for additional leisure craft moorings (para. 5.4.17). It recognised the importance of bringing life to the river and river-front (annex 1 paras 9-11).
13. It seems to me that this position has broadly been carried forward into the new RSS. Policy C7 requires local authorities to provide accessible facilities and

¹ Schedule to the Town & Country Planning (Initial Spatial Strategy)(England) Regulations 2004 (SI 2004/2206) and para 7.4(ii) of the explanatory memorandum thereto.

² Under the provisions of paragraph 1(2) of Schedule 8 to the Planning & Compulsory Purchase Act 2004.

- opportunities for river-related recreation in the River Thames corridor. Para. 14.18 recognises the opportunities offered by the River Thames for sustainable tourism and the shortage of moorings throughout the region, which local authorities should seek positively to address. Para. 14.42 notes that the River Thames represents a major recreational resource and the need further to recognise and expand its potential.
14. Former SP policy DG1, the area policy for Dartford and Gravesham, sought amongst other things identification of opportunities for enhancing the leisure potential of the River Thames. Policy EN12 sought to conserve and enhance the environment within river corridors but indicated that, where consistent with this, provision would be made for increased opportunities for access and water recreation. Policy QL16 supported development that improves or extends water recreation, subject to provisos. The appellant also cited policy QL15, which was not directly relevant to a specific development proposal but required Local Development Documents to make provision for sport and recreation. Although these policies are no longer part of the development plan, I have seen nothing to indicate that the objectives underlying them have ceased to be relevant.
 15. In the LP, saved policy S2 encourages the provision of community leisure and tourist facilities. Saved policy RT5 indicates that proposals which enhance the accessibility of the River Thames and which help to realise its potential for leisure and recreation will normally be allowed. Policy RT6, which is not saved, safeguarded a site in Greenhithe (not this one) for a marina but policy RT7, which is saved, provides for proposals for marinas elsewhere, including other locations at Greenhithe, to be judged against other policies in the Plan.
 16. As the Council pointed out, some of these policies, notably LP policy RT7, are expressly subject to compliance with other policies. Even when this is not explicitly the case, it is a general principle in planning that the development plan must be taken as a whole with all relevant policies being taken into account.

Main issues: common matters

17. Many of the considerations that are material to each of the main issues underlie them all. I therefore address these first, before turning to the individual issues.
18. The proposed marina would be situated offshore in the River Thames, linked to land by a bridge or 'brow'. This would lead from the position of an existing public causeway/slipway. The only land access, by vehicle or on foot, is via Pier Road. This in turn links with High Street at its junction with Avenue Road. These, together with Station Road which connects at the other end of High Street, comprise the B255 road through Greenhithe. However, most through traffic is provided for by the A206 and A226 with which it links to the south.

Traffic

19. The H&T SoCG records agreement between the appellant and the Council on the traffic that would be generated by the proposed marina. This was based on average and 85th percentile trip rates derived from survey data at a number of existing marinas as recorded in the TRICS database. It was also agreed that

discounting those surveys that had been undertaken outside the main June to August sailing season would not increase the trip rates. In the light of this and in the absence of evidence to the contrary, I am satisfied that this exercise provides as robust an estimate of the likely traffic generation as can reasonably be achieved.

20. The SoCG also records agreement of the parties that the additional traffic would not have a detrimental impact on the operation of the road network other than on Pier Road. I address the various impacts on that road later, but accept that other roads in the area have the capacity to cater satisfactorily for traffic generated by this development.

Parking

21. No dedicated parking provision is proposed for the marina. An earlier proposal to make off-site provision by extending a public car park in Eagles Road was not pursued for reasons that are not material to my decision.
22. Saved LP policy T23 requires proposals to include adequate off-street parking facilities, and saved policy B1(f) requires parking provision in accordance with the Council's adopted standard. The Council also referred to policy T22 but this policy has not been saved. SP policy TP19 also required compliance with parking standards. It is undisputed that for a marina the applicable standard is a maximum of 1 space per berth. Although the Council contends that these policies require *some* parking provision, I agree with the appellant that on a strict interpretation this is not so, as zero provision is less than the specified maximum.
23. Expression of parking standards as maxima accords with the policy in Planning Policy Guidance (PPG) 13: *Transport*. The PPG also advises that developers should not be required to provide more spaces than they themselves wish other than in exceptional circumstances. The example given of such circumstances relates to road safety implications, but this is clearly not intended to be exclusive.
24. As the Council pointed out, the PPG is not part of the development plan, though it is a material consideration in planning decisions. The weight to be attached to it is a matter for the decision-maker, and I attach considerable weight to it as an expression of current Government policy that post-dates the LP. For that reason and because a specific decision had been made not to save LP policy RT6 to which I have referred above, I do not regard the minimum parking requirements in that policy as material to the decision on this appeal.
25. In the light of the policies it is necessary to consider the extent to which the proposed marina would generate parking demand, the extent to which this could be met through existing parking provision and the effects of the additional traffic and parking on the surrounding area.
26. On-street parking in the immediate vicinity of the proposed marina is very limited. Most of Pier Road is too narrow to accommodate parked vehicles without blocking the road altogether and in the wider part near its junction with High Street parking is prohibited at all times. There is a small number of spaces in the turning area at the northern end (limited by the need to leave space for turning and access to properties), but these also serve nearby

properties and the public house and I understand them often to be fully occupied as they were at the time of each of my visits.

27. In most of the other roads nearby, particularly the eastern two-thirds of High Street and much of The Avenue, parking is restricted at all times or between 0800 and 1830 Monday to Saturday. However, at the times of my daytime visits there was a significant amount of illegal parking in High Street, including on footways.
28. Unrestricted on-street parking is available in parts of Eagles Road (some 57 spaces); and there are two public car parks (57 and 19 spaces respectively) there. The H&T SoCG records that some 90% of the available spaces in Eagles Road and its car parks are utilised on weekdays, falling to around 40% on Saturdays and 30% on Sundays.
29. This pattern reflects a significant level of commuter parking in Greenhithe, and the Council has proposed a package of parking management measures to tackle this. These include additional restrictions on on-street parking in High Street; a reduction in the number of on-street spaces in Eagles Road, with most of these becoming pay and display and the remainder limited to 4 hours; and new restrictions in the culs de sac off Eagles Road. Additionally, the car parks there would become pay and display, with the one nearest to the proposed marina having a 4-hour limit on weekdays. The scheme has been the subject of consultation and the authority has resolved to take it forward through the statutory Traffic Regulation Order (TRO) processes with a view to introduction in late 2009 or early 2010.
30. Although there can be no certainty at this stage that the scheme will be implemented as currently proposed, I have seen nothing to lead me to doubt that there is a reasonable prospect of this. Also, it would address some of the concerns of local residents about parking, which seem to relate as much to the existing situation as to the effects of the proposed marina.
31. The potential parking demand arising from the proposed marina is not agreed, though the differences between the parties were in my view ultimately not as great as they had suggested. Both initially based their assessments largely on the TRICS data, but during the Inquiry both accepted that there were problems of comparability of the existing marinas for which data was available and the one proposed here. A number of factors were cited, including the presence of other facilities that would themselves generate traffic and parking demand and the fact that all the existing marinas for which data was produced have dedicated parking provision whereas the proposed marina would not.
32. The appellant's parking demand forecast for weekdays is a maximum of 15 vehicles; the Council's assessment was 38 vehicles on a typical weekday. However, the latter was based on the TRICS data on weekday parking at the Weymouth marina only, adjusted pro rata by the respective numbers of berths. It emerged at the Inquiry that the Weymouth marina is close to the town centre and there is evidence that more than half of the use of its car park by members is for purposes other than visiting the marina. On that basis I agree with the appellant that the parking demand here would be some 17 vehicles on weekdays, similar to the appellant's figure.

33. For Saturdays, the busier of the weekend days, the appellant predicts a maximum parking demand of 47 vehicles. The Council's equivalent figure is 56 vehicles. This is the average figure for 4 existing marinas, and although Weymouth is amongst these, I do not accept the appellant's contention that the overall figure should be adjusted by the factor discussed above which relates to that marina alone. Applying the adjustment only to the Weymouth component of the figure reduces the average to 49 vehicles by my calculation, which again is close to the appellant's assessment. I agree that at certain weekends in summer, such as bank holidays and during any regattas or similar events, demand may be higher, but it seems to me that at such peak times it would be reasonable to expect users to recognise that parking nearby may be difficult and to plan their trips accordingly.
34. It is undisputed that on weekdays and at weekends there is at present capacity on Eagles Road in its car parks to accommodate the likely potential demand arising from the proposed marina. The proposed TRO would reduce somewhat the number of spaces available in this part of Greenhithe and, on weekdays, largely preclude long-stay parking. There would still be sufficient capacity to meet the needs of marina users at weekends but on weekdays there would be little scope for parking for more than 4 hours in the vicinity of the marina as the remaining long-stay spaces would be likely to be taken up by commuters.

Measures to reduce parking demand from the marina

35. The appellant submits that the location and nature of the marina, and a number of measures that would be put into effect, would substantially reduce the level of parking demand it would generate.
36. The appellant suggests that the marina would, to a significant extent, serve the local community with many users living within walking or cycling distance and not needing to travel there by car. In part this is based on the number of expressions of interest through the marina website. It became apparent in the course of the Inquiry that there were some anomalies in the list of people who had been taken to have expressed an interest. In particular a number of duplicate names were identified and it emerged that some of the people listed had given their details simply to seek further information rather than to express an interest in using the marina. Indeed, some of these were objectors to the proposed development. By the end of the Inquiry it was agreed between the appellant and the Council that the original list of 143 names should be reduced to 103.
37. It seems to me that, for a number of reasons, even this figure should be treated with considerable caution. Firstly, I have seen nothing to confirm that those remaining on the list have a real interest in using the marina (as opposed to merely seeking information or having registered casually as no deposit or other commitment was required). Secondly, no information has been provided on how many of those included are, or are likely to become, boat owners or regular crew members on boats that would use a marina here. Thirdly, I understand that no indications have been given of the likely membership and mooring fees. Some of those who have expressed an interest might be deterred by the costs when these become known. I recognise, however, that other local prospective members and users would be likely to come forward as the proposal came nearer to fruition and more details became known.

38. I note that the appellant proposes to offer a discount on membership fees to local residents initially to encourage them to join. The discount would be 40% for residents of Greenhithe and Swanscombe and 20% over an area including Dartford, Northfleet and Gravesend. However, no indication has been given of the basic membership fee or of what proportion it would represent of the total costs of membership and mooring. Moreover, this measure would be subject to review and so the discount may not be permanent. If it were not, the effects would dissipate with time. There would be nothing to preclude membership by people living further afield, and indeed there would be a commercial incentive for the management to maximise returns by seeking to secure full membership and use of the available berths regardless of where members/users reside.
39. I agree with the appellant that national rate of marina berths per household referred to by the Greenhithe Community Group is of limited relevance to local take-up of a berths at a marina here as many households live far from the sea. The Group, in recognition of this, applied a factor of 3 to the national rate, resulting in an estimate that only 4.5% of boats at the marina would be owned by people living within walking distance. The appellant's equivalent estimate is 95%, but neither figure is based on any credible evidence specific to this proposal and I consider that both represent unlikely extremes.
40. It is undisputed that Greenhithe is well served by frequent rail and bus services. However, the rail station is some 820m walk from the proposed marina and the nearest bus stops are currently some 500m away up a steep hill. Access to bus services from the marina could be improved through provision of a new bus stop in Eagles Road, and will also be enhanced when the proposed extension of Fastrack Route B brings it within about 330m of the marina. Nevertheless, the appellant conceded at the Inquiry that it is unlikely that many marina users would use these modes to reach it, especially if bringing significant amounts of kit or equipment. I concur with this.

Measures to control (land) access to the marina

41. The appellant proposes a number of measures to prevent or minimise vehicular use of Pier Road by users of the marina and its staff and suppliers.
42. I have addressed above the extent to which users of the marina would be likely to live locally. I consider that there is a good prospect of those living close to the marina choosing on many occasions to walk to and from it, especially given the restrictions on parking nearby. Some may also cycle from further afield. However, the propensity to walk or cycle would inevitably diminish with distance.
43. PPG 13: *Transport* notes that the availability of car parking has a major influence on the means or transport people choose for their journeys. Although the proposed marina would not have dedicated parking, as I have indicated above I consider that under the present conditions they would generally be able to park on-street or in the Eagles Road car parks.
44. I largely agree with the appellant that, if the more stringent parking controls indicated in the proposed TRO were put into effect, marina users would react in similar ways to commuters, for example by changing mode or the time of their car trips to Greenhithe. However, as I understand it, the comings and goings

- of boats would to a significant degree be dependent on the tides. This would in turn influence the timings of (land) trips to and from the marina and may limit modal choice.
45. I accept that some equipment and clothing may be kept on board boats or in lockers at the marina, but it is still likely that those using the marina would need to bring with them and take away equipment and supplies on many occasions. An interested person demonstrated at the Inquiry the amount of kit she needs to take to a boat when crewing, and this did not include consumables such as food and drink. While the Council put forward no evidence as to how often people would arrive or leave with significant amounts of kit, nor did the appellant; I cannot accept the appellant's view that it would 'not occur frequently if at all'.
 46. In my experience few people would be willing and able to carry such amounts of luggage any distance when walking or cycling. I note that, while the person who brought her kit to the Inquiry did carry it in and out, she had only done so from the car park immediately outside the building.
 47. Regular users of the marina would know that they would be unlikely to be able to park in Pier Road. I accept that, even without any measures to deter them from driving down it, most would not do so simply to attempt to park. But in my experience, human nature is such that many carrying kit would wish to drive to as close to the marina as possible to drop it off or pick it up before returning to park at home or elsewhere then walking or cycling empty-handed to the marina.
 48. To address this problem the appellant proposes introduction of a service using road-legal electric buggies, driven by marina staff, to carry kit and passengers to and from the marina. I understand that initially it was suggested that this would be a comprehensive service covering a wide area; by the end of the Inquiry it appears to have been reduced in geographical scope and restricted to 3 buggies, bookable in advance and probably paid for, plying between the marina and parking spaces, public transport and possibly members' homes in or near Greenhithe. (They would also carry deliveries transhipped from suppliers' vehicles; I address this aspect further below.)
 49. The appellant has assumed that 10% of trips would potentially involve use of a buggy, but this is only an estimate unsupported by evidence. I incline towards the Council's view that this is likely to be an underestimate. This too is unsupported, but it was accepted for the appellant that the amount of kit carried by crew members such as the one who appeared at the Inquiry could justify use of a buggy. That suggests that a significant proportion of users would do so. Some parties arriving together may well need more than one buggy, and of course return buggy trips would be required on both arrival at and departure from the marina in most cases.
 50. The utility of such a service in obviating the need to drive close to the marina would depend in large part on the convenience of its use, particularly in terms of waiting times. At busy times demand for the buggies could be considerable. Given the limited number of buggies, the number of staff available to drive them (the appellants indicate a total of 5 for the marina, the demands on whom for other matters would also be greatest at such times), the time taken

for each trip including loading and unloading buggies, I consider that it is unlikely that the marina would be able to guarantee an instant response. Moreover, the buggies would also be used for deliveries, which would further limit their ability to meet members' demands without delay. I consider that marina users would be more inclined to use their own vehicles or taxis to collect kit or passengers if experience showed that they were likely to have to wait even a short time for buggies.

51. Pier Road is a public highway, and as I understand it there is currently nothing in law to prevent any person driving along it. Nevertheless, the appellant has put forward a measure to prevent users of the marina doing so. It is proposed that the marina rules, a draft of which was submitted, would include clauses prohibiting marina users, berth holders and company/marina staff from allowing their vehicles to enter Pier Road or to park there. The stated penalty for non-compliance (over and above any civil penalty) would be immediate suspension of membership and eviction from the marina. The rules would be incorporated into a travel plan which, in turn, would be agreed with the local planning authority and secured through a planning condition.
52. Circular 11/95: *The use of conditions in planning permissions* (para 71) indicates that planning conditions are not an appropriate means of controlling the right of passage over public highways. The appellant argues that the control would be at least at one remove from the condition and so would not conflict with this guidance. Ultimately whether this would render the condition unlawful is a matter of law but, to my mind, if the condition were in practice to require the operator of the marina to restrict members' use of Pier Road it would be contrary to the intention of the guidance. I note also that that the Circular advises that negatively worded conditions to secure such controls might sometimes be capable of being validly imposed, but are likely to be very difficult to enforce effectively.
53. I see a number of difficulties in this instance. As the Council pointed out, the membership rules could be changed; for example, while I do not doubt the appellant's good intentions, the marina could change hands and a new operator might not share them. Also, the draft rules seem to allow the management some discretion in applying the termination of membership penalty, and at the Inquiry the appellant's representatives were unwilling to commit to removing this discretion. In my view there also remains some uncertainty as to the practicality of applying such a rule in respect of one-off or occasional visitors to the marina, as to whether it could be enforced in the case of arrivals or departures by taxi, and as to whether it would be reasonable to apply it in the case of people with mobility problems.
54. The Council questioned whether the proposed rule would be enforceable in the light of the Unfair Terms in Consumer Contracts Regulations 1999³. The appellant responded that the Regulations would not apply to contractual terms in the rules of membership as these would reflect the mandatory regulatory provisions of a condition attached to the planning permission for the marina. However, neither the condition as suggested by the Council nor the amended version put forward for the appellant would explicitly require such a rule. They would only secure the approval of a travel plan and indicate provisions to be

³ SI 1999 No.2083

included therein. These do not (and, for the reason I have indicated above, could not) include a direct control on members' use of Pier Road. The enforceability of the rule in the context of these Regulations is again a matter of law, both in itself and in that it depends on the lawfulness of the condition in question, but in my view it would be at best difficult for the Council to ensure compliance with such a rule through its planning powers.

55. In any event, to my mind there would also be practical difficulties in enforcement of the rule by the marina operator. The appellant suggests that the area at the end of Pier Road could be covered by closed circuit television (CCTV). However, with the low level of marina staffing proposed it seems unlikely that this would be monitored other than sporadically, especially at busy times when staff would be required for other duties or at night when staffing levels would probably be low but people may be arriving or departing if the tides were suitable. Even if transgressions were spotted, or drawn to the attention of the marina by others, it would be necessary to identify the member concerned in order to take action. Matching to records from an electronic key entry system might be possible, if data were recorded, but this would be imprecise and time-consuming.
56. I share the view of the Council that, in the absence of an enforceable requirement to require strict adherence to this rule there would be little incentive for the marina operator to do so. Indeed, there would be a disincentive as terminating memberships for the exercise of a lawful right would to my mind be an unpopular move and would also run counter to the commercial interests of the marina.
57. The condition to secure the travel plan as suggested by the appellant includes a requirement for the plan to include provision for the payment of fines to the local planning authority in the event of targets not being attained. Again the appellant submits that this would not be contrary to the provision of the Circular that no payment of money or other consideration can be required when granting a permission except where there is specific statutory authority (para 83). It is submitted that the condition itself would not require the payment of money. This again raises the legal issue of whether the fact that the requirement would be at one remove from the condition renders such a condition lawful; my view is that an explicit requirement in a condition to include such a provision in a travel plan would not avoid conflict with at least the spirit of the guidance.
58. Taken all these considerations together, I think it likely that significant numbers of marina users would bring vehicles along Pier Road to drop off or pick up kit or supplies and passengers.
59. I have referred above to use of buggies for bringing deliveries on the last part of their trips to the marina. It is proposed that fuel would be delivered to, and refuse collected from, the marina by river. I understand that there are established services for both and their use could be secured through a planning condition. Although it was initially suggested that other deliveries could also come via the river, it was accepted at the Inquiry that this is unlikely to be practicable. I concur with this given the relatively small quantities likely to be involved.

60. Nevertheless, there would still need to be deliveries of food, drink and other supplies. These would be most likely to come by road. The appellant proposes to avoid the use of Pier Road by delivery vehicles by using the buggies to collect goods from the delivery vehicles. Initially it was suggested that the transshipment would be undertaken in the Eagles Road car parks, but interested persons pointed out that these have height barriers and prohibitions on use by commercial vehicles. The appellant therefore indicated that transfers could instead take place on Eagles Road itself. There appear to be no restrictions on loading there at present and loading bays are proposed in the TRO, but residents there are unlikely to welcome their regular use for this purpose.
61. While I accept that the appellant would have some influence over the locations and timings of deliveries through its contracts with suppliers, in my experience it is very difficult to secure precise delivery times. This is not least for the purely practical reason that delivery drivers cannot control traffic conditions and have only limited control over the time taken at previous deliveries. Therefore it would be necessary either to have one or more buggies waiting in Eagles Road for the delivery vehicle, tying up them and their drivers for that time, or for the delivery driver to contact the marina on arrival and wait for the necessary buggy or buggies (which might at the time be engaged in trips for members). Some loads would require more than one buggy trip, adding to the time taken. I believe that few carriers – and more particularly their drivers who are usually on tight schedules - would accept this readily, and that many would seek to 'short-cut' the process by delivering directly to the marina.
62. The only sanction that the marina operator could impose in this eventuality would be to cancel (if possible) or not renew the contract with the supplier or carrier. In some cases this would pose contractual difficulties and would be likely in the long term to drive up costs, which would run counter to the operator's commercial interests.
63. I recognise that the number of deliveries would be limited; the appellant suggests 4 per week, though this seems low to me given the facilities to be offered here. However, to my mind it is likely that at least some delivery vehicles (which could be anything from small vans to large lorries) would drive down Pier Road.
64. The above and other measures proposed by the appellant all offer the potential at least to reduce the number of motor vehicles using Pier Road, though the buggies themselves would have an impact. However, I consider that the practicalities involved and the uncertainty that the measures could be enforced mean that they would be unlikely to be fully effective. Indeed if, as I consider probable, they could not be enforced, then it is likely that the costs and inconvenience involved for the marina operators and members would lead to them being abandoned over time.
65. I turn now to address the main issues in the light of the above common considerations.

Issue (i): safety and convenience of road users

66. As I have indicated above, I am satisfied that the roads in the area other than Pier Road can satisfactorily accommodate the traffic that would be generated by the marina. There is, however, the potential for problems to be caused by

buggies picking up or dropping off members and their kit and supplies at cars parked on-street in Eagles Road. If, in doing so, they had to double park they would interfere with the free flow of traffic along the road. However, there are other statutory controls to address such actions.

67. The main concern arises in Pier Road, which would provide the sole land access to the marina. This is a cul-de-sac; as a result of this and its narrowness it carries little vehicular traffic though it is well-used by pedestrians. There are no separate footways over most of its length, so the roadway acts as a shared surface. Pedestrians use it as one of the few points in this stretch of the river where there is public access to the river, to gain access to the rear of the public house or as a link to the footpath leading to Ingress Park, a children's playground and a promenade along the river.
68. Any additional vehicular traffic along this road would in my view make it less attractive, convenient and safe for pedestrians (who would also be greater in number if the marina were developed). Moreover, over much of its length the road is too narrow for two vehicles to pass (and it was accepted for the appellant that this would also apply to the proposed buggies), which may lead to vehicles having to reverse. In my judgement this would be a dangerous manoeuvre given the nature of the road and the number of pedestrians, including children, using it.
69. The buggies would pose an additional risk to pedestrians as, being electrically powered, they would be quiet and hence those on foot might not be aware of their approach.
70. I conclude on this issue, therefore, that the proposed development would be harmful to the safety and convenience of users (including pedestrians) of Pier Road, though not materially of other roads in the area.
71. In this respect it would be contrary to LP policy T19 in that the development would not appropriately be related to the highway network, and would generate traffic in excess of the capacity of Pier Road (by virtue of it being unable to accommodate safely the additional traffic). It would also have a detrimental effect on Pier Road through traffic generation and would not be capable of being adequately served by this element of the road network. It would thus not perform adequately against two of the factors to be taken into account under LP policy B1 (factors (a) and (g)).

Issue (ii): living conditions

72. Pier Road has residential properties close to the road on both sides in the short length running eastwards from High Street and on the west side in the section running north to the river. Additional activity in the road, particularly increased vehicular traffic would inevitably be noticeable to residents. However, in absolute terms the increased vehicular traffic would be modest even in the worst case, and to the extent that buggies would replace motor vehicles, would cause little noise.
73. I have referred above to the effects of transshipping deliveries to buggies on-street; again this would be noticeable to nearby residents and would no doubt be unwelcome to them. I have already addressed the effects on the highway,

but have seen nothing to indicate that there would be a material effect on living conditions here.

74. Residents' concerns about the change on Pier Road are entirely understandable. Nevertheless, bearing in mind that this is already a public highway without restriction on use by motor vehicles, I conclude that the proposed marina would not cause significant harm to their living conditions or policy conflict in this respect.

Issue (iii): Conservation Area

75. The site is almost entirely off-shore. It is outside the Greenhithe Conservation Area, though it abuts it at the point where the marina brow (the bridge access from the shore to the marina) touches land. The 'planning' SoCG records agreement that neither the marina structures nor the movements of marina craft on the river would have a harmful effect on the Conservation Area, and I have seen or heard nothing to lead me to a different view.
76. However, Pier Road is within the Conservation Area, as are High Street and part of The Avenue which lead to it. The latter two are fairly busy roads, mainly residential but with a small number of commercial and industrial premises too, and provide access to a number of other roads. I do not consider that additional activity arising from the proposed marina would materially affect their character or appearance. Pier Road is a narrow cul-de-sac carrying little vehicular traffic but well-used by pedestrians as I have already indicated. It is characterised by its quiet and intimate nature, and although it is possible that the disused boatyard immediately to the east could be re-used I have seen nothing to indicate that this is likely in the foreseeable future.
77. I recognise that the character and appearance of Greenhithe generally and of High Street and Pier Road in particular have changed since the Conservation Area was designated. I have seen nothing to suggest that there is any likelihood of the designation being revoked or that the area no longer warrants it. It is not the function of such designations to prevent all change, and it follows that the qualities for which they were identified may have evolved. It seems to me entirely appropriate to consider proposals on the basis of the character and appearance of the area as it is now rather than turning the clock back to over 30 years ago.
78. All land movements to and from the marina, by whatever mode, would pass along Pier Road. Extra pedestrian traffic would have only limited impact on the area, but additional vehicular use, especially by motor vehicles but also by buggies, would in my view change its character significantly, detracting from its sense of quiet intimacy.
79. I conclude on this issue that, while the appearance of the Conservation Area would be preserved, the proposed development would not preserve the character of the area. It would, therefore be contrary to LP policy B8.

Other matters

80. The 'planning' SoCG records agreement between the appellant and the Council that the development is acceptable in terms of navigation on the river, flood risk and flood defences.
81. The Port of London Authority (PLA) has no objections to the proposed marina subject to conditions to overcome certain specific concerns. Amongst these is the continued provision of a public slipway here. A number of interested persons seem to be under the impression that the public slipway would cease to be available if the marina were developed. While the existing slipway would be removed, the scheme includes provision of a replacement slipway accessed via the marina brow, and retention of public access to this could be secured through a planning condition. It was, however, acknowledged that the constraints of the site are such that it is likely that the public slipway would have to be closed for a while during construction. It seems to me that this would be reasonable provided that the period were kept to a minimum, which could also be controlled through the condition.
82. The remaining concerns of the PLA could be overcome through conditions. These would, amongst other things, need to secure measures to protect, ecological, wildlife, archaeological and hydrodynamic interests, and to prohibit vessel maintenance at the marina (other than minor work on boats as I agree with the main parties that to preclude this would be unreasonable).
83. I note the concerns of an interested person about the closeness of the proposed moorings to the main shipping channel. These relate mainly to the potential noise from moored boats affected by wash from passing ships. Given the frequency of such events and distance of the moorings from dwellings, I consider it unlikely that this would cause unacceptable harm to residents. It is suggested that this might adversely affect birds within the West Thurrock Marshes and Lagoon Site of Special Scientific Interest (SSSI) on the opposite side of the river, but I note that the river here is over a kilometre wide. A noise impact assessment and any measures necessary to mitigate noise during construction of the marina and its subsequent operation could be secured through a planning condition.
84. The Dartford Cambria Sea Scout Group has for many years used the slipway here for training and other activities on the river a few times a year. The Group refers to the need for continued access to the river; I have addressed this above. It also expresses concern that the marina and brow would cause obstructions, especially for sailing dinghies, and make supervision and surveillance of youngsters engaged in activities on the water more difficult with potential safety implications. However, the Group itself acknowledges that the marina may provide some shelter for its members' boating activities. Also, the appellant indicated that provision for access to the marina itself by the Scouts and those supervising them might be possible by agreement. This would be advantageous, though there can be no guarantee of that such an arrangement would come to fruition and I do not consider that it could be secured through a planning condition. I recognise the value of the water activities undertaken by the Sea Scouts here and that the marina might inhibit them to some extent. Any such adverse effect would be regrettable, though the degree of harm

would be relative to the limited number of occasions on which the location is used.

Overall conclusion

85. I acknowledge the policy support for a marina here, that it would bring significant benefits to the area, and that I have found that it would cause no material harm to residents' living conditions. I recognise the lengths to which the appellant has gone in putting forward proposals to mitigate the likely adverse impacts of the scheme, particularly in terms of traffic in Pier Road. Nevertheless, I am not satisfied that the measures proposed would be sufficiently practicable and enforceable to overcome the harm I have found, principally to the safety and convenience of road users and to the character of the Conservation Area.

86. For the reasons given above I conclude that the appeal should be dismissed.

Alan Boyland

Inspector

DOCUMENTS submitted at the Inquiry

Procedural and agreed documents

- 1 Council's letter of notification of the appeal and list of addressees
- 2 Council's letter of notification of the Inquiry and list of addressees
- 3 Statement of Common Ground between the appellants and the Council on planning matters
- 4 Analysis & corrections to appendix 12 of Graham Simpkin's evidence re expressions of interest, agreed between the appellant and the Council

Submitted by the Council

- 5 Suggested conditions
- 6 Technical note – Raymond Dines' background analysis to table SP3 in Simon Parfitt's evidence
- 7 Exchange of emails on 29 April 2009 between the Council and Weymouth Marina

Submitted by the appellant

- 8 Site plan with scale bar added (drawing no. 1117.100 revision B)
- 9 Map of home locations of people who have expressed an interest in the marina
- 10 Note re expressions of interest (appendix 12 to Graham Simpkin's evidence)
- 11 Appellant's position re. conditions

Submitted by interested persons/bodies

- 12 Written representation by David Challis
- 13 Further representations by Greenhithe Community Group
- 14 Appendices to Tim Carrington's evidence