

## **DOCUMENT 2 – Written Representation – 5<sup>th</sup> April 2019**

### **1.0 Impact on the Heritage, character and amenity of the Staffordshire & Worcestershire Canal and Calf Heath Reservoir**

- 1.1 The Trust remain concerned with the overall visual impact of the proposals on the canal conservation area and Calf Heath Reservoir. As identified previously whilst it is acknowledged that there are urban influences in the surrounding area the Trust remain of the opinion that the canal corridor retains a strong rural character.
- 1.2 The Trust and FAL do not agree on the extent to which the current character of the canal corridor is affected by existing commercial development. The Trust agree that the Staffordshire and Worcestershire Canal is characterised by a transition between different landscape types and land uses. However, it is considered that the canal along this section retains a tranquil and a predominately landscaped / rural character.
- 1.3 The Staffordshire & Worcestershire Canal is a designated conservation area and the site sits between two important and busy locations on the canal; Gailey Wharf and the junction with the Hatherton Canal. There is a lot of activity both on the water and the towpath in this location and despite the presence of some older, established industrial uses the overriding and consistent character of the canal is that of a landscaped corridor set within a wider open rural landscape, as would be expected in designated Green Belt.
- 1.4 It is acknowledged that there may be sections along the canal length, such as adjacent to the SI works, where canal users become more aware of adjacent industrial development as it punctuates through the landscaping at points.
- 1.5 However, as stated above where there is development adjacent to the canal it is generally for short sections of the canal and the built development only punctuates the predominant landscaped character; or as acknowledged in Para 12.432 (ES Document 6.2 Chapter 12), only becomes prominent in close views. The Trust therefore do not agree that industrial developments, such as the SI works, currently dominate the canal corridor.
- 1.6 The Trust have made representations in relation to the Accompanied site visit and proposed site viewpoints. However, the photomontages submitted as part of ES Document 6.2 Chapter 12 are useful in demonstrating the existing character of the canal corridor. In addition, they also clearly show the visual impact the proposed development will have and that the Trust are concerned with.
- 1.7 Gailey Wharf forms a complete set of canal architecture. The Wharf as a whole is locally listed and includes the Grade II listed Roundhouse and Wharf Cottage which contribute to a '*picturesque grouping of buildings around Gailey Wharf*'. (HE listing entry) Within the photomontages Viewpoint 2 (ES Document 6.2 Chp12 Figure 12.13) shows the development will not be a '*minor feature*' when viewed from Gailey Wharf and though the landscaping will aid in screening the development this will be 15 years on from full completion.

- 1.8 The submission indicates that the primary impact will be to the section of the canal between Gailey Wharf and Gravelly Way. However, Viewpoint 7 (ES Document 6.2 Chapter 12 figure 12.13) is quite clear in demonstrating the current open views from the canal south of Straight Mile.
- 1.9 Whilst set back from the canal at this point the development will be clearly visible and dominate the skyline. This Viewpoint is particularly clear in showing the potential positive impact the strategic landscaping could have in reducing the impact of the development and highlighting the importance of this being put in place at the earliest opportunity.
- 1.10 With regards to Calf Heath reservoir the Trust do not agree that the views from the reservoir are 'varied'. As identified in the ES Document 6.2 Chapter 12 Para 12.294 the reservoir boundary to the east is dominated by mature woodland which largely screens the impacts of the M6. With the exception of the northern boundary to the A5 the views from the reservoir are predominately of existing landscaping.
- 1.11 Photo Viewpoint 13 (ES Document 6.2 Chapter 12 Figure 12.13) clearly demonstrates the current open aspect towards the site and the generally consistent landscape views that there are to the west from the reservoir. Whilst it is acknowledged that the introduction of buildings here would inevitably screen development on other plots the submitted Viewpoint is clear in demonstrating the visual impacts the development will have. Even with the landscaping bunds and planting in place at 15yrs the Viewpoint shows that the development will still be visible and will dominate and enclose the outward views from the reservoir to the west.
- 1.12 This impact is also noted in Paras 12.451 & 12.452 (ES Document 6.2 Chp12) which state that the higher parts of the buildings will remain clearly visible and the significance of the visual effects for users of the Calf Heath Reservoir will be moderate/ major adverse upon completion of the proposed development.
- 1.13 The ES, Chapter 12 – Landscape and Visual does aim to assess the impacts of the development on the character and users of the canal and Calf Heath reservoir. The base line taken though is that all canal users are the same (boat and towpath) and the assessment assumes their experience of the canal corridor is 'comparable'.
- 1.14 As has been highlighted previously by the Trust there are a number of different users of the canal corridor and reservoir; boaters, walkers, anglers, canoeists, sailors etc. All of whom will have differing reasons for visiting the waterway and utilise the environment in differing ways. For example, anglers will spend prolonged periods of time in one place whereas cyclists may just pass through an area. Boaters may pass through, though this will be at a slow pace and some may choose to stop for a few hours or a few weeks in one location.
- 1.15 It generally remains a concern that the existing varied use of the canal corridor and reservoir has not been fully understood by the Applicant and thereby the resulting impacts of the development or requirement for particular mitigation not fully appreciated.
- 1.16 This is highlighted across the ES, such as in Chapters 9 & 11 which consider all users as 'comparable' and states the experience of the users of the canal corridor in particular is 'kinetic'. This fails to grasp the fact that the canal corridor and reservoir are not simply places that people pass through but, whilst being part of a wider network, are also treasured local amenities where people come to dwell and experience their character and tranquillity, be that on the water or the towpath.
- 1.17 As stated previously the use of landscaped buffers to the canal and reservoir to mitigate the visual and acoustic impacts of the proposed development is considered a sensible design strategy. The submission is clear that the provision of the landscape bunds is to minimise the impacts to the canal corridor and reservoir. However as detailed above these will impact on the visual outlook from the canal corridor and Calf Heath reservoir and the Trust remain concerned with the impact of these and their effectiveness in screening the development.

- 1.18 However, irrespective of this and as outlined above the Trust consider that to ensure the impacts to the canal corridor and reservoir are minimised it is essential that the strategic landscaping is put in place across the site within the first phase of development.
- 1.19 The submission indicates that the height of the landscape bunds is to be linked to the finished floor levels of the warehouse units to be provided. This would result in strategic landscaping not being in place across the site within the first phase of the development, and therefore we do not agree with this approach.
- 1.20 In response to the Trust's Relevant Representation the Applicant has stated that: *'the bunding east of the Canal is the only bunding not determined by the finished floor levels – as it is instead linked to the internal spine road' and; 'the heights of the bunding along the eastern side of the Canal will vary between 3.5m and 6m in height, with the height of bunding carefully linked to the height parameters for the warehousing'*
- 1.21 The submitted Green Infrastructure Parameters Plans (Document 2.7 A-D) state that the height of the bunds are to be relative to the adjoining Development Zone finished floor level as shown on Document 2.6.
- 1.22 Document 2.6: Parameters Plan- Floor Levels and Heights Plan does not indicate any levels for the proposed Spine Road. It is therefore not clear from the submission how the heights of the bunds are to be set or how this will be controlled through the DCO to ensure it is put in place at the same time as the Spine Road. The Trust would welcome some clarity from the Applicants on this issue.
- 1.23 With regards to the height of the proposed bunding being established as part of the DCO the Applicant has stated that;
- 'putting the mitigation in too early would likely result in bunding not being of an appropriate height (too low or too high) to screen the active uses effectively' and 'having bunding that is too high could have a negative visual impact on the setting'.*
- It is however understood that the assessments carried out as part of the ES have considered the 'worst case' scenario in relation to the impact of the proposed development and this has included an assessment of the visual impacts of the landscaping bunds at their maximum height.
- 1.24 Therefore, if the conclusions of the ES are to be followed it seems appropriate to assume that the Applicant's do not consider the maximum heights proposed for the bunds will have a negative impact on the setting? Otherwise the bunds and the heights of the proposed buildings would need to be reduced to lessen the visual impacts to an acceptable level. On this basis there would seem to be no issue with setting the height of the strategic landscaping as part of the DCO and ensuring it is put in place across the site as part of the first phase of development.
- 1.25 The submitted Photomontages, Viewpoints 2, 7 & 13 in particular, (ES Document 6.2 figure 12.13) are clear in demonstrating the length of time it will take for the landscaping to establish and the interim visual impacts that will be experienced from the canal and reservoir over this significant time period.
- 1.26 The strategic landscaping bunds will take time to establish and, as currently proposed, there does not appear to be any requirement to implement these at the start of development within any phase. Therefore, the buildings could be constructed and operational before the landscaping is commenced. This would significantly extend the time which the canal and reservoir would be exposed to impacts from the development.
- 1.27 Low level bunding will not screen the visual impacts to the canal or aid in buffering the canal from impacts during remediation or construction. In responding to the Trust's Relevant Representation, the Applicant has stated that it will be appropriate to consult the Trust on matters such as the landscape bunds during the details design period for each warehouse / relevant phase.

- 1.28 As part of the Protective Provisions the Trust have advised the Applicant that a 150m consultation buffer for works on land to the east of the railway should be included. The extent of this buffer can be seen at Appendix 1. This is in the Trust's 'Notified Area' for planning applications.
- 1.29 FAL have currently only provided a 15m consultation buffer for the Trust to mirror that agreed with Network Rail. The Trust have advised that our remit differs from Network Rail who are only concerned with the operation of their linear track. The Trust have much wider concerns and obligations such as visual impacts/heritage concerns/impacts on the users of the canal. This development is going to have a significant impact on the canal and its setting and, in these circumstances, we consider a 150m buffer zone is reasonable.
- 1.30 It can be seen that the 150m buffer does not cover a significant part of the site and will predominantly cover the areas of strategic landscaping. Despite the commitment to consulting the Trust on such matters the Applicant has to-date not been willing to accept this as part of the Protective Provisions. The Trust have recently received further correspondence from FAL on this matter and are considering the details. We will provide an update on this within any future submissions.

## **2.0 Bridge Crossings**

- 2.1 The Trust understand the need for a new road bridge as part of the proposed development and can appreciate why the Applicant has chosen the location of the proposed bridge crossing. Whilst it is acknowledged that the bridge design submitted is only illustrative at this stage it should be noted that the details of the bridge crossing have not been agreed with the Trust.
- 2.2 With regards to consultation on proposed new bridge crossings of the canal the Trust would comment as follows:

**Stage 1 Response, dated 14/10/16** – The details submitted as part of this consultation indicated a rail crossing of the Staffordshire & Worcestershire Canal. As a starting point in relation to new crossings of the canal the Trust referred the Applicant to the Trust's 'HS2- Design Principles for Waterway Crossing'

It was stated that this document provides guidance on general design ideals (appearance, sensitivity to the canals etc) and dimensional and structural requirements. It was also advised that the indicative bridge design submitted for the rail bridge would not be acceptable.

**Meeting 3<sup>rd</sup> July 2017** – a meeting was held with the Trust's Area Planner and Infrastructure Services Manager and Waldeck Consulting. The main purpose of this meeting was to discuss technical aspects relating to construction on or near the Trust's infrastructure. This included a discussion on bridge crossings, minimum clearances etc and reference to the Trust's "Code of Practice for Works affecting the Canal & River Trust."

There was discussion in relation to the design of the bridge and it was advised that it was not acceptable to the Trust. The status of the canal as a conservation area was highlighted as an important consideration as was the need to consult with the Heritage and Urban Design colleagues in the Trust. It was also recommended that the bridge design, in particular the parapets, be informed by a detailed noise assessment that considered the canal and its users as sensitive receptors. General comments were made in relation to how the Trust consider bridge crossings and matters to consider, such as angle of crossings, wet abutments etc.

**Meeting 29<sup>th</sup> September 2017** – the Trust and FAL met to discuss various aspects of the proposals. The Trust advised at this meeting that the bridge design was not considered acceptable.

**Stage 2 Response dated 20<sup>th</sup> November 2017** – This stated that the illustrative bridge design was not acceptable to the Trust. It was acknowledged that whilst reference to the Trust's HS2 guidance had

clearly been referenced it had been applied in a more technical manner with little consideration of the site circumstances / character or the status of the canal as a conservation area.

The Trust considered that the bridge design needed to be informed by noise and air quality assessments. Concerns in relation to the angle of the crossing, impact of spaces underneath the bridge in particular on the offside, proposed towpath surfaces and details of how pedestrian access from the spine road/bridge to the towpath is to be accommodated were also highlighted.

It was advised that these issues needed to be considered and utilised in providing an overall approach to the bridge design / alignment that was more sympathetic to and in keeping with the conservation area.

## Proposed Bridge Crossing

- 2.3 The layout and design for the proposed road bridge crossing and surrounding pedestrian / cycle linkages have altered significantly from that presented as part of the pre-application consultations. The bridge layout and design, as currently shown within submitted documents refs: 2.17, 2.18A & 2.18D, is not acceptable to the Trust for the following reasons:

**Bridge Span** - The retention of the existing track from Gravelly Way adversely impacts on the design and layout of the new road bridge. It results in the bridge span being increased and the Trust have previously raised concerns with the creation of large spaces underneath any crossing as these can attract anti-social behaviour activities. The Trust have suggested that whilst some widening to the towpath could be considered (up to 4m) the access track underneath the proposed bridge crossing should be removed. This will enable the bridge span to be reduced and ensure any space under the bridge on the towpath side is at the minimum required.

The Applicant has indicated that the existing access track cannot be removed as it is required to maintain access to the existing property at Gravelly Way House during construction. It is understood that this property is being acquired as part of the Development.

Whilst it is appreciated that some access may need to be retained during the construction of the Spine Road it is felt that there are options available to the Applicant to phase the construction works so as to maintain access to the property without having to retain the access track in the long term.

**Offside abutment** - The submitted plans indicate that the Trust's HS2 bridge design guidance has been followed though this is not wholly carried through in the bridge design currently proposed. The HS2 guidance would include the provision of a wet abutment to the offside though this has not been included.

The Trust therefore suggest that the plans are amended with the bridge abutment re-positioned to ensure there is no space under the bridge to the offside bank of the canal as such areas can attract anti-social behaviour.

**Design** - In addition to concerns with the proposed layout around the existing/ proposed bridges the Trust have concerns with the proposed design of the new road bridge. The gradient of the spine road across the canal has been altered from the details presented at the pre-application stage and this has had knock-on effects to the appearance of the bridge crossing. The Trust's HS2 guidance would suggest a framed crossing with a central focus though this is lost in the submitted proposals.

**Parapets** - The Trust previously raised concerns with the likely adverse impacts to noise and air quality arising from the level of traffic that would be utilising the new crossing. The submission includes noise and air quality assessments though it does not appear that these have been used to inform the bridge design process.

The bridge design as submitted still indicates open parapets though the Applicant has recently indicated these will be changed to brick which the Trust consider more appropriate.

- 2.4 The Trust acknowledge that the bridge design submitted is only illustrative at this stage though it is not clear if the layout of the bridge and adjacent land is also indicative only. If these aspects are also illustrative only at this stage it is considered that the matters above could be dealt with at a later stage in consultation with the Applicant. However, it is concerning that to-date the Trust's comments during the consultation have not been reflected in the design.

### Existing Bridge Crossings

- 2.5 There are currently 2no. canal bridges at Gravelly Way (bridge nos 78 & 78a) the proposed development will result in 3no. bridges being in close proximity to one another and the Trust have previously raised concerns with this.
- 2.6 Whilst it will be necessary to maintain access over the existing road bridge during the construction of the development the Trust consider that the existing road bridge (no.78a) should be removed as part of the proposals. This would enhance the setting of the conservation area, existing brick arch bridge (no.78) and prevent a tunnelling effect occurring for those travelling along this section of the canal.
- 2.7 The applicant has stated that removal of the bridge would need to be undertaken later on in the development once the new road bridge is operational and this would result in unnecessary disruption to the canal corridor. These removal works though would be temporary in nature, any impacts/ disruption could be managed through the Trust's Code of Practice and would be outweighed by the long-term benefits to the canal conservation area.
- 2.8 Whilst it is acknowledged that there will be a separation between the existing and proposed bridges the crossings will still be experienced as a 'group' with users of the canal corridor being aware of the 3no. crossings at the same time whether approaching from the north or south.
- 2.9 Bridge crossings are not an alien feature on the canal and passing under bridges is already part of the user's experience. However, the proximity of the 3no. bridges as currently proposed will have a negative impact on the user's experience.
- 2.10 Appendix 3 contains details on the existing canal crossings from Penkrudge to the north, to the junction of the Staffordshire & Worcestershire canal with the Shropshire Union canal to the south. This detail demonstrates that having 3no. bridges in such close proximity to each other is not something that is a common feature elsewhere on the canal.
- 2.11 In addition, whilst bridge crossings are part of the users experience it should be noted that the type of bridge crossing size/design can have a significant impact on the users experience of passing under it. Appendix 3 shows that the majority of existing bridge crossings were constructed around the same time of the canal. They tend to be brick arch bridges with a smaller span and depth than more modern-day bridges. They are viewed and enjoyed as part of the overall heritage and character of the canal corridor. This experience can be the opposite with modern crossings which are larger, more engineered and often carrying higher levels of traffic.

- 2.12 The ES (Document 6.2 Chapter 9) acknowledges the negative impacts that more modern crossings have on the setting of the conservation area though there is no detailed assessment of the current visual impacts of Bridge 78a. The removal of Bridge 78a would not only enhance the setting of the canal corridor and the users experience of it but would also enhance the setting of the existing brick arch bridge (no.78) which is an original feature of the canal corridor.
- 2.13 The Trust do not agree that Gravelly Way Bridge (no.78) has 'very low' heritage value. The bridge was considered for listing by English Heritage (now Historic England) in 1995. The bridge was identified as being c.1770 and a typical and well-preserved example of the original bridge designs by James Brindley with detailing unique to the Staffordshire & Worcestershire Canal, retaining much of its original character.
- 2.14 The Applicant states that Bridge no.78 is not suitable to act as the main pedestrian / cycle bridge across the canal for users and therefore Bridge 78a needs to be retained for this purpose. The development though proposes the provision of a new crossing of the canal and Bridge 78 therefore does not need to provide the 'main pedestrian / cycle' access across the canal.
- 2.15 Whilst it is acknowledged that Bridge 78 is unlikely to meet modern day design standards there has been no detailed assessment undertaken to determine whether the bridge could support additional pedestrian or cycle traffic, as an alternative to Bridge 78a.
- 2.16 The Applicant has stated that the brick arch bridge (No.78) would remain available for use by pedestrian / cyclists and has been incorporated in to the proposals. Therefore, even in the event that Bridge 78a is retained and used as the main pedestrian/cycle access Bridge 78 will still be likely to experience increased footfall as a result of the development. The proposals though do not include any assessment or proposals for restoration works to mitigate this impact.
- 2.17 The Trust therefore still consider a detailed assessment of the suitability of Bridge 78 should be undertaken. This should then be used to inform the pedestrian / cycle connections across the canal and to the towpath. This could be a Requirement within the DCO and inform the extent of any restoration works required. Provision should however also be made for the removal of Bridge 78a in the event that alternative, suitable pedestrian / cycle access is shown to be available.

### **3.0 Impact on towpath**

- 3.1 The TA (ES Document 6.2-Chapter 15) states that there are opportunities to reach the site using active modes and these opportunities come from 5no. principal routes. The Staffordshire & Worcestershire canal is identified as one of these principal routes. (TA Para15.140 & TA Technical Appendix 15.1)
- 3.2 The TA identifies a 2km pedestrian catchment and an 8km cycle catchment from the site. In relation to the canal corridor this extends to:

#### ***North of the WMI Order Limits from Bridge no.75 on the A5.***

- 2km distance along the canal would extend to approximately Bridge 80A, which sits just on the outskirts of Penkrudge.
- 8km cycle distance would approximately extend to just south of Acton Trussell.

#### **South of the WMI Order Limits from Calf Heath Bridge (no.77) at Station Rd:**

- 2km distance along the canal approximately extends to just south of Bridge 75
- 8km distance extends to the i54 site just south of the M54 Motorway

- 3.3 The TA acknowledges that the surrounding topography is relatively flat, and this will encourage cyclists to travel to the site. It should be noted that to the south the canal is on the same level all the way to the Wolverhampton conurbation.
- 3.4 To the north the canal passes almost directly through the centre of the Penkrudge urban area and is therefore highly accessible to residents and users of Penkrudge Train station. This is demonstrated in Appendix 4 which shows a 12minute walk time distance from the existing canal access points.
- 3.5 The TA identifies advisory cycle routes (Figure 15.7) and states that these provide for a more enjoyable environment for cyclists due to lower traffic volumes. (Para 15.155) The submission however does not appear to acknowledge the fact that the towpath provides a wholly traffic free pedestrian and cycle route that many will consider to be a more attractive commuting route to any of the on-road options.
- 3.6 The presence of this traffic free route may also encourage those people who would not consider utilising on-road routes to travel via foot or cycle to the site. The TA states that a full and comprehensive network of pedestrian and cycle infrastructure will be delivered as part of the development. (ES Document 6.2 TA Technical Appendix 15.1)
- 3.7 Although the submission has acknowledged that the canal is a principal route that will serve the development enhancements to the canal corridor are only proposed within the WMI Order Limits Improvements to other cycle/pedestrian networks outside of the site though are proposed. Notwithstanding this, it is an established principle that developments should seek to mitigate impacts both within and outside planning application boundaries. This can be achieved through a S.106 Agreement or planning condition.
- 3.8 Limiting the canal enhancements to within the site does not seek to fully unlock its potential as an off-road pedestrian / cycling route to serve the development and this would appear to be contrary to the aims of the submitted TA and advice in relation to sustainable transport as set out in the NPS.
- 3.9 The Trust therefore remain concerned that the submission has not fully acknowledged the increased pressure the development will place on the wider canal network as a walking / cycling route. As stated in the submission the towpath is predominately a grass path from Penkrudge to the north and south to i54 and the M54 crossing and this could not support the additional footfall from the wider catchment area that the development will generate.
- 3.10 The Trust generally seeks to maintain its assets in a “steady state”, and in the case of towpath surface and towpath access maintenance, this is based on current usage. Where new development has the likelihood to increase usage the Trust’s maintenance liabilities will also increase.
- 3.11 The canal is a principal pedestrian / cycle route serving the proposed development. Considering its catchment and linkages to key urban areas it is likely that it will experience increased use as a direct result of the proposed development.
- 3.12 We therefore consider that it is reasonable for the CES to cover increased maintenance costs, upgrading of the towpath surface and access points to a standard which is more durable / accessible and thus able to accommodate the increased usage resulting from the proposed development.
- 3.13 The Trust consider the wider impacts will relate to the towpath primarily from Wolverhampton, just south of Junction 2 of the M54, up to Penkrudge where trips may be combined with the existing train station. We have previously advised FAL that an assessment of the towpath corridor along this length of canal should be undertaken. This should include a towpath width survey; assessment of existing access points to the towpath, their suitability for increased use and any improvements required; and the requirements for any new access points.
- 3.14 This baseline assessment should then be used to inform detailed mitigation works to be completed as part of the CES and support use of the canal corridor as a sustainable transport route to serve the



proposed development, whilst taking into account the conservation area status of the canal and its current rural character. This should be included as a Requirement within Schedule 2 of the DCO and agreed in consultation with the Trust.

#### **4.0 Impact to Calf Heath reservoir**

- 4.1 As outlined above the Trust remain concerned with the overall impact of the development on the visual amenities of the surrounding area and impact to users of the reservoir, such as the sailing club, and consider structural landscaping should be installed as part of Phase 1 of the development.
- 4.2 There is an existing ditch course to the toe of the west dam which has been partially shown on the drawing Works Associated with Canal and Rivers Trust Ditch Network' (1516-0425-WDK-SI-C-301-012) [Document 6.2 – Appendix 16.3].
- 4.3 As highlighted previously the ditch course does also extend around the length of the reservoir though from the submitted plans it is not clear that this has been fully considered. The submitted plans also show the proposed landscaping bund encroaching into the ditch. This needs to be amended as the ditch course needs to remain free from obstruction and maintained appropriately as part of the development as it is within the Applicant's site.
- 4.4 As advised previously the Trust do require continued vehicular and foot access to the west side of the ditch. This needs to be a minimum of 5m wide to ensure that heavy plant access can continue to the west dam.

#### **5.0 Natural Environment (inc noise and Air Quality)**

- 5.1 The Trust remain concerned with the impact of the predicted noise levels for various locations along the canal. Whilst it is acknowledged that some of the higher predicted noise levels are for the construction phase, due to the size of the development this could extend over a significant period of time and as highlighted previously long-term exposure at this level is harmful. The submission also appears to indicate that the identified high impacts at the canal moorings from operational noise are anticipated to be long-term permanent effects.
- 5.2 The landscaping bunding forms part of the noise mitigation for the development though it is not to be put in place as part of the first phase of development. Thereby resulting in the canal receptors being exposed to higher levels of noise for longer periods of time than necessary.
- 5.3 Users of the canal are considered '*transient*' or '*quasi-residential*'. As highlighted previously it needs to be recognised that there are long-term moorings on the canal and the canal and reservoir are not just areas that people simply pass through. Impacts to noise / air quality can adversely impact on those utilising the waterway for the health and wellbeing benefits that they deliver.
- 5.4 Whilst there are no permanent residential mooring sites within the WMI Order Limits there are permanent leisure moorings (max 10no.) at Gailey Wharf which are let on a 12month basis. There are no set restrictions imposed by the Trust on the length of time people can stay on the boats at these moorings for leisure purposes.
- 5.5 There are other moorings which are subject to shorter time restrictions though it should be noted that outside of designated moorings sites boats can moor anywhere on the canal network for a period of up to 14days. Full details on the moorings can be found within Appendix 6.
- 5.6 The development has the potential to 'sterilise' this stretch of canal and reduce its attractiveness as a leisure facility and affect the business operations at the marina / reservoir / moorings and along the canal corridor. The Trust have previously highlighted that this appears to be contrary to the NPS which

requires development to minimise impacts on health and quality of life. It is not clear from the current submission that this has been fully considered or addressed.

- 5.7 Noise reduction schemes are highlighted though the submission considers it difficult to implement these in relation to the canal. As highlighted previously the Trust consider further work in relation to the noise impacts on the canal is required. This works needs to look at the potential for further mitigation measures, such as the installation of all strategic landscaping as the first phase of the development and assessment of the practicalities of applying the bespoke noise insulation scheme to the permanent leisure moorings.
- 5.8 The Trust have been seeking to include wording in the protective provisions to clarify that FAL's indemnity to the Trust shall include any loss sustained by the Trust in the event that the Trust's tenants/licensees terminate their agreements in respect of the use of the waterway (including the moorings, reservoir and marina) as a consequence of the effects of the DCO. To-date FAL have not agreed to this inclusion

## **6.0 Surface Water Drainage**

- 6.1 The Trust have previously advised that surface water discharge to the canal from the whole site may be feasible and we are currently considering an Application for surface water discharge to the canal from three of the four catchment areas. The Application will be considered in accordance with the Trust's Code of Practice
- 6.2 The current submitted details indicate there will be 3no. pipe crossings under the canal between the proposed swales, this detail will be subject to commercial agreement and the details will need to be agreed and works considered under the Trusts 'Code of Practice'."

## **7.0 Draft Protective Provisions**

- 7.1 The Trust has proposed that the definition of specified works includes a reference to the Trust's standard notified area (being the area which the Trust would ordinarily require consultation in the event of works proposed within this) of 150m. As previously stated the Trust have received recent correspondence from FAL on this matter which we are considering.
- 7.2 The Trust are seeking to include wording in the protective provisions which clarifies that Four Ashes' indemnity to the Trust shall include any loss sustained by the Trust in the event that the Trust's tenants/licensees terminate their agreements in respect of the use of the waterway (including the reservoir and marina) as a consequence of the effects of the DCO.
- 7.3 The Trust consider this to be reasonable because this loss is reasonably foreseeable particularly given that some of the Trust's tenants have already raised concerns regarding the proposals. If the Trust experience loss as a consequence of the DCO then it is equitable for the Trust to be compensated for this loss. The wording suggested in the protective provisions was intended to clarify a position that already exists; that FAL are required to fully compensate the Trust for any loss based upon the principle of equivalence.

**Anne Denby, Area Planner**

[Anne.denby@canalrivertrust.org.uk](mailto:Anne.denby@canalrivertrust.org.uk)

**05.04.19**