

Case Officer: Tom Webster

Recommendation: Approve

Applicant: Peveril Securities Ltd

Proposal: Discharge of Conditions 6 (ground levels), 10 (surface water drainage scheme), 12 (biodiversity statement), 14 (foul drainage scheme), 20 (means of access) and 24 (Site Walkover Survey) for Phase 1a (sub-station) of 17/02534/OUT

Expiry Date: 21 December 2023

Extension of Time:

1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT

1.1. The application site relates to 13.1 hectares of predominantly arable land that surrounds the existing Tesco superstore adjacent to the A41 in Bicester. The application site forms the majority of the land strategically allocated as Bicester 4 through the Cherwell Local Plan 2011-2031 Part 1 (CLPP1) for the creation of a new office park. The site is generally flat and features a predominantly open boundary to Lakeview Drive, separated by only a line of newly planted trees planted along the verge.

1.1. A combination of trees, hedgerows and woodland form the western, southern and eastern boundaries together with a network of drainage ditches. An existing ditch passes through the site from Lakeview Drive and feeds a pond just beyond the southern boundary of the site.

1.2. To the east of the site lies Langford Brook and beyond this the sewage treatment works. To the south lies Bicester Avenue garden/retail centre. The land between the eastern boundary of the site and Langford Brook is all within the floodplain. With the exception of that there are no relevant statutory or planning policy constraints/designations affecting the site.

2. CONDITIONS PROPOSED TO BE DISCHARGED

2.1. The applicants are seeking to discharge Conditions 6 (Ground Levels), 10 (Surface Water Drainage Scheme), 12 (Biodiversity Statement), 14 (Foul Water Drainage Strategy), 18 (Means of Access) and 22 (Site Walkover Survey) of Planning Permission 17/02534/OUT.

2.2. For completeness, Conditions 6, 10, 12, 14, 20 and 24 read as follows:

Condition 6 (Ground Levels)

"All reserved matters submissions relating to a phase shall be accompanied by details of the existing and proposed ground levels as well as finished floor levels of all proposed buildings within that phase. Where the proposed ground and floor level details are approved as part of the reserved matters approval for that phase, the development in that phase shall be undertaken in accordance with those approved levels.

Reason - To ensure that the proposed development is in scale and harmony with its surroundings and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.“

Condition 10 (Surface Water Drainage Scheme)

“All applications for approval of reserved matters relating to each phase shall be accompanied by details of a surface water drainage scheme for that phase (in accordance with the principles embodied within Sustainable Drainage Systems (SuDS) and the approved surface water drainage strategy for the overall site approved by condition 9). The development shall thereafter be constructed in accordance with the approved surface water drainage scheme and no development shall be occupied within each phase until the approved drainage scheme is completed.

Reason - To ensure that the development does not increase risk of flash flooding in an extreme storm event in accordance with the requirements of Policy ESD7 of the Cherwell Local Plan 2011- 2031 Part 1 as well as Government guidance contained in the National Planning Policy Framework.”

Condition 12 (Phase Biodiversity Statement)

“All applications for reserved matters approval relating to a phase shall be accompanied by a biodiversity statement that has regard to the ecological information contained within Appendix B to the Environmental Statement Addendum (June 2018) and shall include an assessment of the ecological implications of development within that phase together with the measures to be incorporated within that phase to help mitigate/enhance ecological interest on the site. Development within the phase must thereafter take place in accordance with the measures contained within the approved biodiversity statement for that phase.

Reason - To ensure that the ecological impact of the detailed phases of the overall development are fully understood and coordinated through an overarching ecological strategy for the site in accordance with the requirements of Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in the National Planning Policy Framework.”

Condition 14 (Foul Water Drainage Strategy)

No development shall take place within each phase until a detailed scheme of foul drainage for the development within that phase has been submitted to, and approved in writing by, the Local Planning Authority. The foul drainage scheme shall be completed in accordance with the approved scheme prior to the occupation of any building within that phase and retained as such thereafter.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996, Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

Condition 20 (Means of Access)

“No development shall take place on any phase that will take access directly from Lakeview Drive until details of the means of access between the land and Lakeview Drive including position, layout and vision splays for that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of any development in that phase hereby approved, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of ensuring that the detailed access is safe and suitable to comply with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.”

Condition 24 (Ecology – Site Walkover Survey)

“No development within a phase shall take place until the land within that phase has been subject to a site walkover survey by a suitably qualified ecologist to ensure that no protected species which could be harmed by the development have moved on to the land since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development within the phase shall be carried out in accordance with the approved mitigation scheme.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.”

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:
- 3.2. 23/01080/OUT–Variation of Condition 4 (approved plans and documents), Condition 30 (highway design) and Condition 34 (employment floor space limit) of 17/02534/OUT relating to the erection of a business park of up to 60,000sq.m (GEA) of flexible Class B1(a) office / Class B1(b) research & development floorspace (now under Use Class E); associated vehicle parking, landscaping, highways, infrastructure and earthworks (Original Application accompanied by an Environmental Statement) – *Granted 4 May 2024*
- 3.3. 23/01711/REM - Reserved matters approval for 17/02534/OUT - Proposed construction of a sub-station with all associated works – *Granted 17/11/2023*
- 3.4. 17/02534/OUT -- “The erection of a business park of up to 60,000 sq.m (GEA) of flexible Class B1(a) office / Class B1(b) research & development floorspace; associated vehicle parking, landscaping, highways, infrastructure and earthworks” – *Granted 6 May 2020*
- 3.5. 07/01106/OUT - Outline - Construction of a 60000 sqm business park incorporating offices (B1) and hotel (C1), parking for up to 1837 cars, associated highway, infrastructure and earthworks (as amplified by additional information received 15.08.07, addendum to the Flood Risk Assessment received 07.09.07, additional information received 18.10.07 and Archaeological Trench Evaluation received 04.12.07). *Granted 26 October 2010*

- 3.6. 12/01193/F - Proposed foodstore with associated car parking, petrol filling station with car wash/jet wash, recycling facilities, ancillary plant and equipment, landscaping, access and highway works. *Granted 12 November 2013*

4. RESPONSE TO PUBLICITY

- 4.1 This application has been publicised by way of a Site Notice displayed near the site, expiring **7 October 2023** and a Press notice on the **21 September 2023** expiring **21 October 2023**.
- 4.2 No comments have been raised by third parties.

5. RESPONSE TO CONSULTATION

- 5.1. Thames Water: *No comments to make.*
- 5.2. Environmental Agency: *No comments to make.*
- 5.3. OCC Highways: *No objection. Condition may be partly discharged.*

It is noted that planning condition 20 restricts any development from taking place on any phase that will take access from Lakeview Drive until when details of the means of access for that phase has been submitted and approved in writing by the LPA. As such, the HA wish to partially discharge condition 20 in respect of Phase 4 only to enable access to the sub station.

- 5.4. OCC Drainage: No objection
- 5.5. CDC Drainage: *The foul water drainage disposal strategy shown on drawing 082005-CUR-00-XXDR-C-92003 - P02 indicates this to be to a cesspit. This is not acceptable due to the close proximity of a watercourse. An alternative means of disposal such as a "Saniflo" pumped system should be used to accommodate the relatively small volumes of untreated effluent which will be generated on this site.*
- 5.6. CDC Ecology: *The information with the Ecology Statement is generally satisfactory when assessed in conjunction with the Ecological appraisal, although there is no assessment of the particular impacts of the site for sub station site (Phase 1a) alone.*

The achievement of net gain is reliant on other parts of the wider application, namely an 'eco-park' area, but the justification for this is set out clearly enough.

The only issue I have is with the lack of clarity on the skylark mitigation being proposed. This is something I raised in my recent response for 23/02399/REM & 24/00030/DISC (attached).

Both conditions 12 and 24 require details of how mitigation will be implemented on site. As I said in my previous response, there was a site plan from 2018 which included skylark plots in the 'eco park' section. However, the newest plans don't seem to include these plots and rely on the creation of wildflower meadow as replacement habitat – which I don't think is sufficient. Specific details on how skylark mitigation is going to be incorporated should be provided.

I also raised concerns about BNG being only 7.76% - although these newer calculations show they have been brought up to 8.43% - which is an improvement.

If the above concerns can be addressed, I would be happy with the partial discharge of conditions 12 and 24. The walkover surveys (condition 24) have been completed, and the Ecology Statement (condition 12) addresses all other concerns.

6. APPRAISAL

- 6.1. The original application was EIA development and has only very recently been approved (6th May 2020), which means the EIA is still up to date. Therefore, the EIA is considered sufficient for the purpose of considering the information provided for this condition and it has been taken into account in considering this subsequent application.
- 6.2. The original application was EIA development and this submission is a 'subsequent application' under the EIA Regulations. The information submitted pursuant to the discharge of these conditions were not included within the Environmental Statement submitted with the application although it will support the development of the site to the satisfaction of the local planning authority in consideration of the environmental impacts. For these reasons, the EIA is considered adequate for the purposes of considering the information provided for this condition and it has been taken into account in considering this subsequent application.
- 6.3. Details of the existing and proposed ground floor levels were submitted, and approved, as part of the reserved matters application 23/01711/REM. Therefore, condition 6 of 17/02534/OUT can be partially discharged.
- 6.4. The Lead Local Flood Authority (Oxfordshire County Council) (condition 10) raised no objection to the proposed surface water drainage scheme for this phase, which, in accordance with the condition, has already been approved under reserved matters application 23/01711/REM. Therefore, this condition can also be partially discharged.
- 6.5. Regarding Condition 14 (Foul Water Drainage Scheme), Cherwell District Council's Flood Risk Management service initially raised concerns about a plan showing a septic tank and kitchen and toilet facilities. In a phone conversation, the Flood Risk Officer explained that because the site is very close to Langford Brook and, given the size of the site, there is insufficient room to create an acceptable drainage field, it is likely that the foul sewage would seep into Langford Brook, polluting it. He raised the same concern over the same plan during the reserved matters application (23/01711/REM) for the substation.
- 6.6. However, during the course of that reserved matters application, the applicants submitted a revised plan which removed reference to a septic tank and removed toilet and kitchen/wash basin facilities. On this basis, the Flood Risk Officer removed his objection. The approved plan (082005-CUR-00-XX-DR-C-92003_P04 – Revised Sustainable Substation Drainage Plan) has been brought across into this discharge of condition application, which means that condition 14 can now be partially discharged.
- 6.7. The Council's Ecology officer is satisfied with the walkover surveys (a requirement of condition 24). In her comments, the ecology officer noted that a 2018 site plan (submitted under 17/2534/OUT) included skylark plots on the 'eco park'. However, this discharge of condition relates to the substation plot (phase 1a) and not the 'eco park'; and the ecological evidence provided suggests that there are no skylark plots on this phase.
- 6.8. Condition 12 requires all reserved matters applications to be accompanied by a biodiversity statement which will identify any ecological implications and mitigation

measures, if required, in addition to enhancements. The Reserved Matters application 23/01711/REM included the same Biodiversity Statement that has been submitted with this discharge of condition application.

- 6.9. The Council's ecologist was generally happy with the information submitted but, during that application, noted that the overall BNG will be achieved once each parcel of land on the wider site allocation site has been developed.
- 6.10. Moreover, the biodiversity mitigation and enhancement measures for this parcel of land (phase 1a) has been secured via conditions attached to 23/01711/REM.
- 6.11. For these reasons, conditions 12 and 24 of outline consent 17/02534/OUT can be partially discharged.
- 6.12. Oxfordshire County Council (OCC) were consulted in regards to the 'means of access' condition 20. OCC have confirmed that they have no objection to a partial discharge of condition 20 to enable access to Phase 1a (substation plot) from Lakeview Drive.
- 6.13. Given the above, the written scheme of investigation is considered to be acceptable, and Conditions 6, 10, 12, 14, 20 and 24 can be partially discharged.

7. RECOMMENDATION

That Planning Condition 6, 10, 12, 14, 20 and 24 of 17/02534/OUT be partially discharged based upon the following:

Condition 6

F101 Rev A – Site Layout

Condition 10

082005-CUR-00-XX-DR-C-92003_P04 – Substation Sustainable Drainage Plan

Condition 12

Bicester Arc Sub Station Ecology Statement, July 2023

Defra 3.1 300623 - sub station additionality

Condition 14

082005-CUR-00-XX-DR-C-92003_P04 –Substation Sustainable Drainage Plan

Condition 20

F101 Rev A – Site Layout

Condition 24

Bicester Arc Sub Station Ecology Statement, July 2023

Bicester Arc Ecological Appraisal, June 2023

Informative

In accordance with Regulations 3 and 9 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), Cherwell District Council as Local Planning Authority in this case, is satisfied that the environmental information already before it remains adequate to assess the environmental effects of the development and has taken that information into consideration in determining this discharge of condition application.

Case Officer: Tom Webster

DATE: 9 May 2024

Checked By: Caroline Ford

DATE: 10 May 2024
