

**Case Officer:** John Cosgrove

**Recommendation:** Approve

**Applicant:** Mr John Miller

**Proposal:** Fishing hut with jetty, separate bridge and separate fishing jetty

**Expiry Date:** 4 May 2021

**Extension of Time:** 7 May 2021

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located on the West side of Wendlebury Road and forms part of a landholding known as Wendlebury Park Farm. The site contains a privately owned lake measuring c. 1560 square meters and stocked with fish. There are a number of residential dwellings separated from the Southern boundary of the plot by a stream. The site is not located within a Conservation Area and does not contain nor does it impact on the setting of any Listed Buildings. The site is Located within Flood Zones 2 and 3, and as such is considered at risk of flooding. There are no other relevant planning constraints.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application proposes the erection of fishing hut with jetty, separate bridge and separate fishing jetty. The proposed fishing hut would be located on the north west bank of the lake and would be constructed from timber with a dual pitched profile sheeting roof. The proposed hut would measure c. 5.01 meters wide, 6 meters deep and would have an eaves height of c. 2.055 metres and a ridge height of c. 3.95 metres. The hut would also feature a timber jetty measuring c. 60 square metres. The application also proposes a timber bridge measuring c. 15.56 metres wide between the south bank of the pond and the existing island in its centre, along with a second jetty on the south west bank and measuring c. 12 square metres.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. There is no planning history directly relevant to the proposal.

## **4. PRE-APPLICATION DISCUSSIONS**

- 4.1. No pre-application discussions have taken place with regard to this proposal.

## **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **20 April 2021**, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. No comments have been raised by third parties.

## **6. RESPONSE TO CONSULTATION**

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. Wendlebury Parish Council: *The Parish Council has no objections but concerns that a planning condition should be added that the site be used for private use only. The PC have now been advised that when the ponds were first established, the Environment Agency approved the pond on condition that there would be no fish in the pond and that therefore there would be not fishing of any kind there - commercial or otherwise.*

### STATUTORY CONSULTEES

- 6.3 Environment Agency: Requested a revised FRA, Following receipt of the revised FRA stated: The submitted Flood Risk Assessment dated April 2021 prepared by Innervision Design Ltd demonstrates to our satisfaction that the applicant has established the expected level of flood risk on site for a 1% annual probability flood event and has also considered the impact of increased flood levels as a result of climate change. The FRA confirms that existing land levels on site are above the expected critical flood level with climate change allowances included. Therefore, the development will not increase the risk of flooding on or off site and we have no objection to the application.

### NON-STATUTORY CONSULTEES

- 6.4. CDC Ecology: No Response.
- 6.5. CDC Landscape Services: No Response
- 6.6. OCC Drainage (LLFA): No Response
- 6.7. CDC Land Drainage: The site is adjacent to the Wendlebury Brook at which point it is a Main River. Therefore, consult the Environment Agency. The site is shown to be in Flood Zones 2 and 3. However, this is a compatible development in accordance with NPPF guidance. I have no objections in principle. The bridge leading to the island referred to in the Flood Risk Assessment will require a Land Drainage consent. This will have to be made to the Environment Agency as the proposal is to erect a structure on a Main River.

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- ESD1 – Mitigating and Adapting to Climate Change
- ESD6 – Sustainable Flood Risk Management
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment.
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design, residential amenity

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **8. APPRAISAL**

#### 8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Flood Risk
- Highway Safety

#### 8.2. Principle of Development

The application seeks planning permission for ancillary structures to enhance an existing private fishing pond, on agricultural land within the countryside, outside the Oxford Greenbelt, but within Flood Zones 2 and 3. As the proposed development would be modest in scale and couldn't be located elsewhere it is considered that the proposal may be acceptable in principle subject to compliance with the relevant Development Plan policies.

#### 8.3. Design and Impact on the character of the area.

The proposed development would be modest in scale and would comprise the erection of a wooden jetty a wooden bridge to an existing island within the pond and the erection of a fishing hut and jetty. The proposed structures would integrate well with their surroundings and would not have any adverse impacts on the character and appearance of the site or the wider area and are considered acceptable in design terms. While the fishing hut would be visible from the rear of no's 7 and 8 Rectory Close, it is noted that the site is well screened by mature planting and the hut would be located a considerable distance from the rear elevations of these dwellings, and therefore considering the modest scale of the proposed fishing hut, it is not considered that the proposal would have an overbearing or incongruous appearance when viewed from the se dwellings. Therefore, having regard to the above no objections are raised with regard to the design elements of Policies: ESD10, ESD13, ESD15 or C28.

#### 8.4. Residential Amenity

While the proposed development would be located adjacent to rear of no's 7 and 8 Rectory Close, it is noted that the site is well screened by mature planting and the

development would be located a reasonable distance from the rear elevations of these dwellings, therefore, considering the modest scale of the proposed fishing hut and the fact that the development is intended for the private use of the applicant, it is considered that subject to a condition restricting the commercial use of the site the proposed development would not have any adverse impacts on the amenity of neighbouring properties and therefore no objections are raised with regard to the amenity elements of Policies: ESD15 and C30.

#### 8.5. Flood Risk

The majority of the site is situated within Flood Zone 3, while a small portion of the site is within Flood Zone 2. The Environment Agency was consulted and requested the applicant submit a revised Flood Risk assessment, following submission of a revised and expanded Flood Risk Assessment which demonstrates that the requirements of the sequential test have been met the Environment Agency have confirmed that they have no objections to the proposal as the development would be a water compatible form of development that would be acceptable in Flood Zone 3. The Lead Local Flood Authority were also consulted on the scheme; however, no response has been received at the time of drafting this report. The Council Drainage Officer was also consulted and advised that they have no objections in principle to the proposal. Having regard to the above, it is considered that the proposed development is an appropriate form of development within Flood Zone 3 and subject to compliance with the provisions of the submitted Flood Risk Assessment no objections are raised with regard to the provisions of Policies: ESD6 and ESD8.

#### 8.6. Highway Safety

The application site is located within an existing farm holding that is served by an existing access to the highway and a substantial area of hard standing, the application does not propose any alterations to the highway access or the loss or gain of any parking spaces. As the proposal does not propose public or commercial use of the facilities it is not considered that the proposal would lead to any increased vehicular traffic to the site, nor would it result in any increased parking demand. Therefore, having regard to the above the highways impacts of the proposed development are considered acceptable and no objections are raised with regard to parking or highway safety.

#### 8.7. Other Matters

It is noted that the Parish Council advised that they had been informed that the Environment Agency had permitted the creation of the pond subject to a condition that it not be stocked with fish. This issue was raised with the Environment Agency who confirmed in writing on the 10/02/2021 that they were unaware of any such condition or restriction.

### **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposed development would be modest in scale and would not have a detrimental impact on the character and appearance of the site or the wider landscape and subject to a condition restricting the facilities to private use would not have any adverse impacts on the amenity of any neighbouring properties. While the site is located within an area of flood risk, the proposal is considered to represent a

water compatible form of development that is acceptable within a flood zone. Therefore, having regard to the above the proposed development is considered to accord with the provisions of the relevant development plan policies and is thus considered to represent sustainable development, and it is recommended that planning permission be granted on this occasion.

## **10. RECOMMENDATION**

That permission is granted, subject to the following conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents:

Drawing No: 7098-01, Entitled: Location Plan, Block Plan and proposed Plans and Elevations, Dated: 04/11/2020 and received by the Local Planning Authority on the 02/12/2020.

Drawing No: 7098-01 REV: A, Entitled: Location Plan, Block Plan and proposed Plans and Elevations and Hut Sections, Dated: 04/11/2020 and received by the Local Planning Authority on the 06/04/2021.

Design and Access Statement by Stable Architecture Ltd, Undated, and received by the Local Planning Authority on the 15/12/2020.

Flood Risk Assessment by Inversion Design Ltd. Dated: April 2021 and received by the Local Planning Authority on the 06/04/2021.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. The fishing hut and facilities hereby permitted shall be for private use only and no commercial use of any kind or organised fishing competitions or events shall take place at any time without the prior written consent of the Local Planning Authority.

Reason - To protect the amenities of nearby residents and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and with Government guidance contained within the National Planning Policy Framework.

Case Officer: John Cosgrove

DATE: 04/05/2021

Checked By: Paul Ihringer

DATE: 7/5/21

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