

**Case Officer:** Linda Griffiths

**Recommendation:** Approve

**Applicant:** L&Q Estates

**Proposal:** Discharge of condition 41 (right of way alternative route) of  
14/01932/OUT

**Expiry Date:** 25 June 2021

**Extension of Time:** 25 June 2021

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## **1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT**

- 1.1. The site is the larger part of the Banbury 17 allocation in the adopted Cherwell Local Plan 2011-2031 for up to 1,000 residential dwellings and associated infrastructure.

## **2. CONDITIONS PROPOSED TO BE DISCHARGED**

- 2.1. The application seeks to discharge condition 41 of the outline consent in respect of footpaths 47 and 49. Condition 41 requires that no development shall take place until a satisfactory alternative route for any public right of way that is needed to be diverted has been agreed. The application is accompanied by several plans and documents.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. The following planning history is considered relevant to the current proposal:

14/01932/OUT – outline consent for up to 1,000 dwellings and associated infrastructure.

## **4. RESPONSE TO CONSULTATION**

- 5.1. Oxfordshire County Council – objection initially on the grounds that insufficient details had originally been provided to approve the discharge of the condition.

Update 23<sup>rd</sup> June 2021 – Following submission of further details, the PRow Officer confirmed satisfaction that this condition could now be discharged.

- 5.2. Banbury Town Council – no objections to the permanent diversion routes as these are clearly needed for drainage and playing field provision but an explanation sought for the temporary diversion of proposed PRow 120/47, why cannot it be put on the permanent alignment from the outset.

- 5.3. Public Comments – a nearby resident objected, stating that the application was inadequate and did not show the route of the existing and proposed route. By and large Public Rights of Way should be retained on their historic routing. Hitherto, developers and/or their designers have sought the realignment of the routes simply to ease their layout arrangements and not because of any 'structural need'. I submit this tendency should be resisted as the applicant knew full well that the PRowS existed across the site at the outset and the development layout should respect the status quo. That realignments have been allowed in the past is no precedent for continuation of this practice.

## **5. APPRAISAL**

- 6.1. The submission includes details of the temporary and permanent diversion routes for the re-routing of Public Rights of Way 47 and 49. The information submitted with this application is also provided as part of the Framework Construction Management Plan - Parts A and B (condition 49) which has now been discharged in respect of the site access construction works.
- 6.2. Currently, FP/47 crosses through the centre of the proposed sports pitches and therefore it would not be practical to keep along its existing route, so the proposal is to permanently divert this section alongside the sports pitches and one of the residential blocks and then out onto Salt Way just to the west of its current point. This new route will be provided alongside construction works relating to this part of the development. In the meantime, a temporary diversion is proposed alongside the existing bridleway route.
- 6.3. Currently, FP/49 runs along the western side of the development close to Bloxham Road and needs to be diverted in conjunction with the construction of the new access into the development. A temporary diversion which will take pedestrians along the pavement on Bloxham Road is necessary from a pedestrian safety point of view. The permanent diversion diverts the footpath through the open space and around an attenuation basin to a safer crossing point on the new roundabout.
- 6.4. The proposals have been assessed by OCC as both highway and public rights of way authority. Initially OCC raised an objection on the grounds that the details of the proposed diversion route were insufficient and requested details of the crossing facilities of the A361 and access/spine roads, cross-sections, surfaces, furniture and lighting. It was considered that the alternative route could not be deemed acceptable until those aspects had all been clarified and found to be acceptable.
- 6.5. Following the submission of revised documentation and information OCC removed their objection advising that the condition can be discharged as the applicant commits to protecting the existing temporarily diverted public rights of way and has set out a temporary diversion route for the footpath 49. The undertaking to improve/firm the surface of the temporary route is noted and should be done before TTRO comes into effect. The temporary route needs ongoing maintenance (strimming/mowing/fence checking) throughout the period of the temporary diversion. For the permanent diversion, OCC will want to see details of proposed route, width and structures in order to reach agreement.
- 6.6. Having regard to the need to divert the footpaths as explained above and the revised submission which has sought to address the objection raised by OCC, the proposals are considered acceptable and it is therefore recommended that the condition be discharged accordingly.
- 6.7. The original application was EIA development. The condition to be discharged does not raise any additional issues and are details required to be submitted to specifically address conditions relating to the outline consent as a consequence of the building works. 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. RECOMMENDATION**

That Planning Condition 41 of 14/01932/OUT be discharged based upon the following:

Condition 41

Drawing Numbers: 8686 087; 8686 088; OBCL/1000/001 Rev 01 and temporary construction access plan A

PRoW Temp Diversion Signage

Framework Construction Management Plan Parts A and B Rev B

Case Officer: Linda Griffiths

DATE: 23 June 2021

Checked By: Andy Bateson

DATE: 24<sup>th</sup> June 2021

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