

Ms Caroline Ford  
Cherwell District Council  
Planning & Development Services  
Bodicote House White Post Road  
Bodicote  
Banbury  
OX15 4AA

**Our ref:** WA/2021/129425/01-L01  
**Your ref:** 21/03558/OUT  
**Date:** 19 January 2022

Dear Ms Ford

**Residential development for up to 250 dwellings including affordable housing and ancillary uses including retained local wildlife site, public open space, play areas, localised land remodelling, compensatory flood storage, structural planting and access**

**Land on the north east side of, Gavray Drive, Bicester**

Thank you for consulting us on the above application. Please accept my apologies for the delay in responding.

#### **Environment Agency position**

In the absence of an acceptable flood risk assessment (FRA) we **object** to this application and recommend that planning permission is refused. The application is contrary to paragraph 163 of the National Planning Policy Framework and Local Plan Policy ESD6 and Bicester 13.

#### **Reason(s)**

Parts of the application site lies within Flood Zones 2, 3a and 3b, which is land defined by the planning practice guidance (PPG) as having a medium to high probability of flooding.

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

1. Provide evidence of how the presented flood levels with climate change allowances have been derived. Therefore, we are unable to verify how the proposed development is likely to be affected by flooding in the future.

2. Apply the sequential approach to locating development in the lowest flood risk area. The FRA confirms that some of the residential units and vehicular access will be located within flood zone 3a and within an area identified at future flood risk due to climate change.
3. Flood risk mitigation measures to address the loss of flood storage as a result of residential development and vehicular access within an area of flood risk are inadequate because they will increase the risk of flooding. The proposed flood storage compensation scheme is not designed to Environment Agency standards.

### **Overcoming our objection**

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

### Climate change flood levels

The FRA refers to Environment Agency data which has been used to determine the climate change flood levels. However, the data we hold does not include climate change levels and the FRA will need to provide evidence of how these levels have been derived. If fluvial modelling has been undertaken, we will need to review the model in order to verify the results.

The submitted FRA refers to climate change allowances as published on 19 February 2016. Climate change allowances were updated in 2021 and while the levels presented within the FRA may be precautionary, the applicant will need to refer to the current and most up to date allowances to substantiate this. If current climate change allowances for this catchment are higher than currently presented within the FRA, it will need to be revised to take account of this.

### Sequential approach and flood storage

The FRA states that some residential parcels and vehicular access is located within flood risk zones. This is contrary to policy Bicester 13 which requires the sequential approach to ensure all development is located outside of Flood Zone 3. The proposed mitigation for the loss of flood storage resulting from this is through volumetric compensation. The proposed area for this compensation is within land which is already at risk of flooding and therefore will be provide the level for level mitigation required. The FRA is also lacking in how much flood storage is lost and how much will be gained.

Any loss of floodplain storage, as a result of development, within the 1% annual probability flood extent with an appropriate allowance for climate change (1% plus climate change) must be directly compensated for. This is necessary to prevent the new development reducing flood plain storage and displacing flood waters, thereby increasing flood risk elsewhere.

Level for level flood plain compensation is the preferred method of mitigation. This method is the matching of volumes lost to the flood plain with new flood plain volume through the reduction of ground levels. For this to be achievable it requires land to be available to the applicant on the edge of the flood plain and above the 1% plus climate change flood level. Comparing the flood level with a topographical survey will show the availability of suitable land.

### **Advice to LPA**

If you are minded to approve this application for major development contrary to our flood risk objection, we request that you contact us to allow further discussion and/or representations from us in line with the [Town and Country Planning \(Consultation\) \(England\) Direction 2021](#).

This statutory instrument prevents you from issuing planning permission without first referring the application to the Secretary of State for Housing, Communities and Local Government (via the National Planning Casework Unit) to give them the opportunity to call-in the application for their own determination. This process must be followed unless we are able to withdraw our objection to you in writing. A failure to follow this statutory process could render any decision unlawful, and the resultant permission vulnerable to legal challenge.

### **Environmental permit - advice to applicant**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk).

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### **Closing comments**

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

Yours sincerely

**Miss Sarah Green**  
**Sustainable Places - Planning Advisor**

Direct dial 0208 474 9253

Direct e-mail [planning\\_THM@environment-agency.gov.uk](mailto:planning_THM@environment-agency.gov.uk)