

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

**Our ref:** WA/2023/130308/01-L01  
**Your ref:** 23/00417/DISC  
**Date:** 30 March 2023

Dear Sir/Madam

**Discharge Of Conditions 12 (Construction Management Plan), 13 (Landscape Environment Management Plan), 14 (Construction Environment Management Plan), 21 (Woodland Management Plan) And 31 (Habitat Management Plan) Of 22/01144/F**

**OS Parcel 5700 South West Of Grange Farm, Street Through Little Chesterton, Chesterton**

Thank you for consulting us on the proposed development noted above and thank you for agreeing an additional timeframe for the provision of our comments.

We have reviewed the following documents with regards to our planning remit:

- Construction Environmental Management Plan (ref: PJF/NW/10528, dated March 2023, prepared by Framptons).
- Landscape and Ecological Management Plan (ref: edp2425\_r012g, dated March 2023, prepared by the Environmental Dimension Partnership) and appendix EDP 1 parts 1 – 3 and appendix EDP 2.
- Public Right of Way Diversion Plan (dwg No: 205223/PD18, dated 31 August 2022 prepared by Vectos).
- Biodiversity Protection Zones (dwg No: edp2425\_d066, dated 9 December 2022, prepared by the Environmental Dimension Partnership).

We requested Condition 13 – Landscape and Ecological Management Plan (LEMP) and Condition 14 – Construction Environmental Management Plan (CEMP) at the full planning application stage.

### **Environment Agency position**

We have reviewed the above documents with regards to our planning remit and **do not** consider that these are sufficient to allow the discharge of Conditions 13 and 14. The CEMP and LEMP need to ensure that the watercourse and its corridor are adequately protected during both construction and subsequent maintenance and that the water

framework directive (WFD) status of the waterbody is not adversely affected. Please see below for further detailed reasons regarding each condition.

### **Condition 13 (LEMP)**

We welcome the thorough consideration of terrestrial ecology and the inclusion of good practice in the design of the attenuation features including the broad, undulating draw down zone. However, the watercourse and its corridor have not been adequately considered. This is part of the headwaters of the Wendlebury Brook and therefore, has significant ecological importance in terms of both aquatic and corridor habitat as well as the vital role of connectivity. For this reason, it warrants explicit reference in each of the sections so that the maintenance of the channel and corridor can be specifically designed to promote healthy habitats and connectivity.

In particular, a more detailed/quantified description of how much scrub will be removed and number of trees thinned from the river corridor is required, some shade is essential for the health of the watercourse and a quantity of scrub provides essential and valuable habitat for the corridor. This needs to be outlined in the LEMP.

In addition, the following issues should be addressed:

- The Biodiversity Protection Zones plan and Appendix 2: Landscape Planting plan in the CEMP show some protective fencing on the bank top of the Wendlebury Brook, this should be revised to allow mammal passage along the river corridor by setting any fences back from the bank top. The positioning of this fencing should be accurately identified in the CEMP and LEMP and not left as a decision for the contractor.
- There is no sheet to cover the furthest extent of the brook before it crosses the main road (i.e., Northeast of sheet 7). The LEMP should cover the maintenance of an ecological buffer zone for the entire length and both banks of the watercourse where it is not culverted.
- Medallion turf is not suitable for an ecological buffer zone as it contains aggressive grass species which would dominate native plants and prevent their establishment. The ecological buffer zone should only be planted with native species and include some trees and shrubs to provide habitat, refuge, food and some shade along the corridor. *Quercus Ilex* is naturalised in the UK but not native to the UK. Native species are preferred due to their increased benefits for wildlife.

Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. This approach is supported by paragraphs 174 and 180 of the NPPF which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity.

### **Condition 14 (CEMP)**

The CEMP should include how the ecology of the Wendlebury Brook is to be protected during the re-alignment of the watercourse, with particular focus on the exact position of the new channel and ecological buffer zones, cross sections and depth of the new channel, how silt mobilisation will be controlled, any planned dewatering activities and mitigation for fish passage/spawning.

The ecological buffer zone is required along the entire length of the watercourse and on both banks except where a culvert takes the flow under the access road and main road. The Biodiversity Protection Zones plan and Appendix 2: Landscape Planting plan in the CEMP appear to show the ecological buffer stopping short of the access road and not

continuing between the culverts despite there being a retained part of the watercourse which will not be culverted.

These plans also show that the buffer is often only on one side of the watercourse and likewise the section north of the Ancient Semi-natural Woodland is not coloured to show habitats to be retained but appears to be within the site boundary.

Furthermore, the plans show fences on the bank top, this is unacceptable. All fences need to be moved back to the edge of the ecological buffer zone to allow movement of fauna through the river corridor.

In addition to the above, the submitted CEMP has the following issues:

- Section 5.0 (page 8) describes debris netting on the boundary fence. However, this should not prevent fauna accessing the brook or reduce connectivity along the corridor. Protective fencing should be around the source of debris and dust instead of along the brook.
- It is not acceptable for the contractor to decide on an appropriate buffer for the ecological buffer zone (as stated in section 6), particularly around the watercourse. This should be decided prior to any work and must be included in the CEMP submitted for the discharge of condition.
- Netting should not be used along the bank of the Wendlebury Brook (as stated in section 11), and the Biodiversity Protection Zone plan shows fences too close to bank top. The position of these fences is critical and should be confirmed prior to the contractor initiating work.

Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. This approach is supported by paragraphs 174 and 180 of the NPPF which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity.

### **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.

**Final Comments**

Thank you again for consulting us on this application. Our comments are based on the best available data and the information as presented to us.

**If you are minded to approve this planning application, contrary to our advice please contact us prior to doing so, to explain why material considerations outweigh our objection. This will allow us to make further representations.**

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me. Please quote our reference number in any future correspondence.

Yours faithfully

**Miss Chloe Alma-Daykin  
Planning Advisor**

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