

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

Our ref: WA/2024/131442/01-L01
Your ref: 23/01493/REM
Date: 11 June 2024

Dear Sir/Madam

Reserved Matters Application Including Access, Layout, Landscaping And Scale Pursuant To Outline Planning Permission 14/02121/Out For Internal Primary And Secondary Streets Along With The Part Discharge Of Conditions 12, 16, 17 And 19 For Phase 1b At Himley Village, Bicester

Proposed Himley Village North West Bicester Middleton Stoney Road Bicester Oxfordshire

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.

This development is going to connect to Bicester Sewage Treatment Works (STW). Environment Agency records suggest that as of the 2021-23 compliance period, Bicester STW is using around 87% of the current permitted Dry Weather Flow permit. We understand that there is a substantial amount of development within the STW catchment that will be coming forward over the next couple of years, which may put the STW at risk of exceeding the permitted Dry Weather Flow. This presents a risk of deterioration of the receiving waterbody. Although there is a small amount of headroom in the current discharge permit, this will quickly be eroded by new developments coming online and a new Dry Weather Flow permit will likely be required in the short to medium term. Bicester is also a relatively high spilling site, and new developments discharging to the STW catchment may increase the instances of storm overflows before upgrades are made. Applications to increase permit headroom need to be made well in advance of development coming online to prevent unacceptable environmental risks.

Given the development proposed in the catchment, and the minimal headroom in the permit, we would like to see confirmation there is capacity at the STW for each development parcel that comes forward.

Did you know that in the UK, 6.6 million tonnes of household food waste a year is thrown away? Almost three quarters of that is food which could have been eaten. Do your bit to avoid domestic food waste to fight climate change! www.lovefoodhatewaste.com www.wrap.org.uk

Environment Agency position – foul waste

The proposed development will be acceptable if the following **condition** is included on the planning permission's decision notice. Without this condition we would object to the proposal due to its adverse impact on the environment.

Condition

The development hereby permitted shall not be commenced until such time as a scheme to foul water has been submitted to, and approved in writing by, the local planning authority. This is to include evidence that there is capacity at the receiving Sewage Treatment Works for this development. The scheme shall be implemented as approved.

Reasons

The Thames river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the impact could cause deterioration of a quality element to a lower status class and/or prevent the recovery of Langford Brook (Biscester to Ray including Gagle Brook) water body.

Environment Agency position – other matters

Due to increased workload prioritisation we are unable to provide comments on this application in regards to other matters in our planning remit.

We would expect that as long as the proposed details comply with the planning conditions we requested on the outline planning permission, together with any advice provided in our consultation response, that the submitted details would be sufficient for you to determine the application.

Sequential test – advice to Planning Authority

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 168), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of

search has been used. Further guidance on the area of search can be found in the planning practice guidance [here](#).

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance [here](#).

Exception test – advice to Planning Authority

In accordance with the National Planning Policy Framework (paragraphs 170 and 171), the proposed development is appropriate provided that the site meets the requirements of the exception test. Our comments on the proposals relate to the part of the exception test that demonstrates the development is safe. The local planning authority must decide whether or not the proposal provides wider sustainability benefits to the community that outweigh flood risk.

The exception test should only be applied as set out in flood risk table 3 of the Planning Practice Guidance (PPG) following application of the sequential test. The exception test should not be used to justify the grant of planning permission in flood risk areas when the sequential test has shown that there are reasonably available, lower risk sites, appropriate for the proposed development.

In those circumstances, planning permission should be refused, unless you consider that sustainable development objectives make steering development to these lower risk sites inappropriate as outlined in PPG (ref ID: 7-033-20140306).

Our role in the exception test

The exception test is in two parts, described in the NPPF (paragraph 170). In order for the test to be passed it must be demonstrated that

1. The development would provide wider sustainability benefits to the community that outweigh flood risk; and
2. The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Paragraph 171 of the NPPF makes clear that both parts need to be met for the test to be satisfied. It is for the applicant to demonstrate this.

We provide advice on the second part of the test, but it is for you, as the local planning authority, to consider the first part of the test, accounting for the findings of the flood risk assessment and our flood risk advice, and to determine whether the test, overall, has been satisfied. Development that does not satisfy both parts of the exception test should be refused.

Where the flood risk assessment shows the development will be safe throughout its lifetime without increasing flood risk elsewhere

Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by

flooding. You will need to weigh these risks against any wider sustainability benefits to the community.

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.

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.

Other Consents

As you are aware we also have a regulatory role in issuing legally required consents, permits or licences for various activities. We have not assessed whether consent will be required under our regulatory role and therefore this letter does not indicate that permission will be given by the Environment Agency as a regulatory body.

The applicant should contact 03708 506 506 or consult our website to establish if consent will be required for the works they are proposing. Please see <http://www.environment-agency.gov.uk/business/topics/permitting/default.aspx>

An environmental permit is in addition to and a separate process from obtaining planning permission.

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. 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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