

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

**Our ref:** WA/2024/131010/01-L01  
**Your ref:** 23/03231/F  
**Date:** 25 January 2024

Dear Sir/Madam

### **Erection Of Agricultural Barn For Animal Food Storage, Animal Welfare, Farm Machinery Storage And Security**

#### **Hawthorn Hart Land Wroxton Lane Horley OX15 6BB**

Thank you for consulting us on this application. We have assessed it in line with our planning remit and have reviewed the submitted documents including:

- Flood risk assessment (ref XP-CA1-9461642, dated 7<sup>th</sup> June 2023)
- Proposed plans/elevations, (ref MT.J.1584/1, rev B, dated October 2023).

This site is located within Flood Zone 3 according to the Flood Map for Planning. This is defined as having a high probability of flooding in accordance with Table 1 'Flood Risk' of the Planning Practice Guidance (PPG). There is no detailed flood modelling available in this location. In accordance with the Cherwell District Council Strategic Flood Risk Assessment (SFRA), which states that in the absence of detailed fluvial modelling Flood Zones 3a and 3b should be considered equal, this site is considered to be located within Flood Zone 3b (functional floodplain). The development is classed as less vulnerable in accordance with Annex 3 of the National Planning Policy Framework (NPPF).

#### **Environment Agency position**

We **object** to the proposed development due to it being inappropriate to the Flood Zone. We also **object** due to the absence of an appropriate Flood Risk Assessment (FRA). We recommend that planning permission is refused.

#### **Objection 1**

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located.

The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG).

### **Reason 1**

NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3b functional floodplain which is land defined by the PPG as having a high probability of flooding. The development is classed as less vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

This development has been identified to lie in Flood Zone 3b in accordance with the Cherwell District Council Strategic Flood Risk Assessment (SFRA) which states that in the absence of detailed fluvial modelling, Flood Zones 3a and 3b should be considered equal. As the development lies in Flood Zone 3, and there is no detailed modelling available at the site, we therefore consider the development to lie within FZ3b.

### **Overcoming our objection 1**

The applicant can overcome our first objection by clearly demonstrating that the proposed development site is located outside of Flood Zone 3b. This may include undertaking further studies such as a site-specific flood modelling and/or a topographical survey. If this cannot be demonstrated, we are likely to maintain our objection. Please reconsult us if further studies are undertaken.

Table 2 of the Planning Practice Guidance to the National Planning Policy Framework makes it clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted. We have provided comments below on the Flood Risk Assessment in order to provide as much clarity as we can to inform your decision-making process and to advise the applicant on other technical matters. **Only upon successfully addressing objection 1 and demonstrating the site is outside of Flood Zone 3b would the proposed development potentially be appropriate at this site.**

### **Objection 2**

In the absence of an acceptable flood risk assessment (FRA) we object to this application.

### **Reason**

The submitted FRA (ref XP-CA1-9461642, dated 7<sup>th</sup> June 2023) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- take the impacts of climate change into account
- consider how a range of flooding events (including extreme events) will affect people and property
- take a sequential approach and locate the most vulnerable development in the areas at lowest risk of flooding
- consider whether flood risk will be increased in the surrounding area
- demonstrate the development will not increase flood risk elsewhere
  - it has not been demonstrated that the loss of floodplain storage within the 1% annual exceedance probability (AEP) flood extent with an appropriate

allowance for climate change caused by the proposed development can be mitigated for.

- voids are not an appropriate means of mitigating for the loss of floodplain storage within the 1% annual exceedance probability (AEP) flood extent with an appropriate allowance for climate change caused by the proposed development
- address the opportunities presented by this development for reducing flood risk
- demonstrate that finished floor levels will be set above the 1% annual exceedance probability (AEP) flood level with an appropriate allowance for climate change. Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event.
- demonstrate the development will be appropriately flood resistant and resilient for its lifetime.

## **Overcoming our objection 2**

Should objection 1 be able to be overcome, in order to overcome our second 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. Specifically, the revised FRA should consider the following:

### Flood risk information

There is no detailed modelling available in this location. The level of flooding at this site will be required to calculate the volume of compensatory flood storage required and determine appropriate finished floor levels. A conservative level could be agreed for the 3.3% annual exceedance probability (AEP) and 1% AEP flood events with an appropriate allowance for climate change. It may be appropriate to undertake some flow analysis and basic modelling to establish this level. The floodplain compensation scheme and finished floor levels should then be designed to this agreed level.

### Climate change

Please be aware that in July 2021 the climate change allowances for peak river flow were revised giving a range of allowances to be used based on flood zone, vulnerability and management catchment area. Further information can be found here: '[Flood risk assessments: climate change allowances](#)'.

### Finished Floor Levels (FFLs)

Finished floor levels should be set above the 1% AEP flood level with an appropriate allowance for climate change to reduce the risk of flooding to property and future occupants. We recommend that finished floor levels are raised at least 300mm above this level. This will reduce the risk of flooding to people and property.

### Floodplain storage

Any increase in built footprint or raising of ground levels should be compensated up to the 1% AEP plus an appropriate allowance for climate change flood level. This is necessary to prevent the proposed development reducing floodplain storage and displacing flood waters, thereby increasing flood risk elsewhere.

Level-for-level floodplain compensation is the preferred method of mitigation and should be considered within the FRA. Level-for-level floodplain compensation is the matching of floodplain storage volumes lost with new floodplain storage volume gained through the reduction of ground levels. Please note for this to be achievable it requires land on the edge of the floodplain and above the 1% annual exceedance probability (AEP) flood

level with an appropriate allowance for climate change to be available. A comparison of ground levels (from a topographical survey) with modelled floodplain levels will show if land is available above the 1% AEP flood level with an appropriate allowance for climate change to be used as compensation.

We recommend that level for level floodplain storage calculations are provided in a table that sets out the volume of floodplain storage lost (cut) and the volume of floodplain storage gained (fill) for each of the slices. Typically, the thickness of a slice should be 100mm or 200mm, dependent on-site specific considerations. This may vary in the case of large, very flat sites, where 0.05 metres could be used; or in very steep sites with a high range of flood water levels. Slice thickness should be set to provide 10 to 15 slices in these cases. It will need to be demonstrated that there would be no net loss in storage volume for any slice.

A location plan that corresponds with the table should also be submitted showing where the compensation will be located on site. The location of the changes in floodplain storage should be clearly identified, demonstrating the scheme would be hydraulically connected for each slice. It is not acceptable to propose works several kilometres away or separated from the site by a significant structure such as a weir, bridge or other obstruction.

Excavation of the proposed floodplain compensation scheme should be completed prior to the construction of development to ensure floodplain capacity is maintained.

If this cannot be achieved, then the applicant may need to amend the development to ensure that there will be no increase in flood risk elsewhere (for example by reducing built footprint or amount of land raising proposed).

## **Sequential test - advice to LPA**

### **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 and:
  - the proposed development is consistent with the use for which the site was allocated; and
  - there have been no significant changes to the known level of flood risk to the site, now or in the future, which would have affected the outcome of the test

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 determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability. You may also ask the applicant to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Further guidance on the area of search can be found in paragraphs 027-030 of 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](#).

### **Advice to Applicant - 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>

This includes any proposal to undertake work in, over, under, or within 8 metres of the top of the bank of a designated Main River, called a Flood Risk Activity permit.

### **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 the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further representations. Should our objection be removed, it is likely we will recommend the inclusion of condition(s) on any subsequent approval.

In accordance with the planning practice guidance (determining a planning application, paragraph 019), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

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 faithfully

**Sarah Warriss-Simmons**

## **Planning Advisor**

Direct dial 0203 025 9855

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