

**Case Officer:** Caroline Ford

**Recommendation:** Approval

**Applicant:** A2Dominion

**Proposal:** Partial Discharge of Conditions 31; 53 and 69 (infrastructure phase (specifically the river corridor)), 14 and 18 (residential phase two), 24 and 25 (infrastructure phase (specifically spine road running through residential phase 2)) of 10/01780/HYBRID

**Expiry Date:** 21 June 2019

**Extension of Time:**

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

1.1. The application relates to the Exemplar development at NW Bicester now known as Elmsbrook and more specifically the infrastructure phase and residential phase 2. The Phases are largely complete, and this application relates to regularising various matters that were altered from the approved arrangements through the construction of the phase. The development has generally been built in accordance with the development granted planning permission by 10/01780/HYBRID (which was EIA development) as amended through an NMA process and in accordance with details approved through previous discharge of condition applications.

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

2.1. The application seeks to re-discharge the condition numbers specified in the description of the development for specific parts of the development site, other than levels through the river corridor which are to be approved for the first time (albeit in any event were re-looked at in the construction of phase 2 due to issues found with the previously planned levels). The detail of the matters submitted for approval, the condition number and its original reason for imposition, will be detailed in the appraisal section.

## **3. RELEVANT PLANNING HISTORY**

3.1. As described above, the main permission for the site was granted by 10/01780/HYBRID. There have been various previous condition discharge applications across the site including the conditions to be re-discharged by this application.

## **4. RESPONSE TO CONSULTATION**

4.1 **CDC LANDSCAPE: Comments** made upon the river corridor planting plans regarding the suitability of species of trees in certain locations, the need for maintenance access, the need for clarification on the landscape treatment between the school's northern boundary and the river corridor and for the northern school boundary to be planted with a native hedgerow for visual amenity.

4.2 **OCC TRANSPORT: No objection** to the partial discharge of conditions 18, 24 and 25. Details of these conditions have been approved technically as part of a S38 and are covered by the same conditions. No comments related to conditions 14 and 53.

- 4.3 OCC DRAINAGE: The ponds were designed to provide an attenuation feature for the site. These take drainage from the spine road although unsure if they take flows from elsewhere as infiltration was used for the majority of the site. The Hyder original design was not adequate as the features were designed to outfall into the receiving watercourse at a level lower than the bed of the watercourse, however they were sized to take the 1 in 100 year plus 30% climate change storm and to discharge at greenfield rates. The redesign now provides no attenuation function and will just fill up, overflow and discharge freely into the receiving watercourse. This is **not acceptable** and further attenuation features may be required if they cannot be reconfigured to provide the required attenuation.
- 4.4 ENVIRONMENT AGENCY: **No objections** to the partial discharge of condition 31 as the tensor greenslope solution is preferable to traditional gabions (previously planned) as it incorporates soil into the solution as well as planting. The subsequent 'greening up' appears to be achieved quicker and improves bank stability earlier following construction. No objections to the partial discharge condition 53 and no objections to the partial discharge of condition 69 as the proposal to move the SUDs pond out of the designated flood plain of the ordinary watercourse is sensible.
- 4.5 THAMES WATER: **No objections.** Happy for the surface water condition referenced to be discharged based on the information submitted.

## 5. APPRAISAL

### Residential Phase Two (Conditions 14 and 18)

- 5.1. Condition 14 required details of boundary enclosures for each dwelling to be submitted for approval. The reason for the imposition of the condition was to ensure the satisfactory appearance of the completed development and to safeguard the privacy of the occupants of the existing and proposed dwellings. Condition 18 required details of the streetscape, including amongst other details, boundary treatments to any buildings and the reason for the imposition of the condition was to ensure the delivery of satisfactory streets that deliver the green infrastructure, play and other features necessary to create a successful place.
- 5.2. This DISC application has applied to re-discharge conditions 14 and 18 for residential phase 2 and specifically a changed arrangement relating to plot 233. Whilst the approved boundary treatment plan did not show a wall along the side of the plot, a beckstone wall just 600mm from the side of plot 233 where a lounge and dining room window are present has been constructed. A2D therefore propose to replace the boundary wall with black railings (found elsewhere on the development). Plot 233 does not have a prominent side boundary in that the plot is behind the main route through the site and its side faces onto a driveway that provides access to a number of dwellings and a parking court only. In addition, railings are present on site. The plans for approval are not entirely clear as to the extent of the change proposed, however the beckstone wall along the side of the garden is not likely to change to railings given this would give lack of privacy to the garden (although from a visual point of view, if this did change to railings, this would be acceptable) and the change is made to deal with the problem of the proximity of the wall to the windows. Therefore, it is proposed to describe within the approval wording that the change relates to the side northern boundary adjacent to the wall of the dwelling only to clarify where the use of railings are approved. On this basis, I am comfortable that railings in this location would be acceptable and would continue to represent a satisfactory appearance and that conditions 14 and 18 can be re-discharged for this specific change.

#### Infrastructure Phase – Spine Road Phase 2 (Conditions 24 and 25)

- 5.3. Condition 24 required full design and construction details, including vision splays, bridge details, surfacing, planting, traffic calming of the roads, paths, bridges and other parts of the access routes to be submitted for approval. The reason for the imposition of the condition was in the interests of highway safety and the appearance of the area. Condition 25 required details of the final surface treatment of each road (including lanes, community streets and public footpaths) to be submitted for approval. The reason for the imposition of the condition was to ensure the satisfactory appearance of the completed development.
- 5.4. The applicant has applied to re-discharge conditions 24 and 25 for the infrastructure phase through phase 2 only. This proposes to agree the footway finish colour. The footway finish was approved for Phase 1 as a white natratex finish, however through this phase, issues were experienced with the colour chosen and OCC were not prepared to adopt the footways. In light of the problems experienced, A2D sought to agree an alternative for Phase 1 to replace the footways in the phase and a discharge of condition application has been approved to use an Ulticolour 'Buff' finish. The footway finish was not previously approved by CDC for the infrastructure phase through Phase 2 and the applicant wishes to regularise this matter and agree the use of the same product 'Ulticolour Light Buff' produced by Tarmac for this area. On the basis that this has been approved through residential Phase 1, and it is considered to be an acceptable finish, I consider it appropriate to approve conditions 24 and 25 for the infrastructure phase footways through residential phase 2.

#### Infrastructure Phase – River Corridor and Spine Road (Condition 31)

- 5.5. Condition 31 required a scheme for the landscape design for each phase to be submitted for approval and it included a number of requirements within it. The condition has been discharged for each of the phases across the development and this submission seeks to regularise matters that have been completed through the construction phase and prior to them being formally approved.
- 5.6. Firstly, the applicant has applied to regularise a matter related to the position of the trees along the spine road through the residential Phase 2 area. A change occurred from the approved arrangement due to the position of service runs (main and district heating services) which meant that the position of some trees along the spine road had to either be removed or moved. Approval of the detailed design is therefore sought. From what I can see, this matter has already been approved through application 17/00223/DISC, however as the applicant has sought this detail for approval, it is recommended to be referred to within this decision but, rather than a reference to the plans submitted, it is proposed to refer to the plans approved by 17/00223/DISC which are later revisions of the plans now submitted so are assumed to be more up to date. On this basis and the assessment made under 17/00223/DISC, I agree that the changes are acceptable.
- 5.7. Secondly, the applicant has sought to regularise the finish to certain parts of the river corridor area. The originally approved arrangement was for Gabion walls, which, following later review could not be constructed without undermining the main spine road and existing drainage. The proposed alternative is a TENSAR engineered bank, which is effectively a sloped, landscaped feature which performs the same role in terms of stabilisation but with a natural appearance to the finish. The solution has been constructed, can be seen on site and is considered to be acceptable in nature. The Environment Agency have raised no objection to this arrangement considering it to be a preferable solution.

- 5.8. The Landscape Officer has raised some detailed concerns with the Landscape Plans, however the plans do not propose changes to the landscaping within the river corridor which is completed. The changes are restricted to the matters assessed above.

Infrastructure Phase – River Corridor (Conditions 53 and 69)

- 5.9. The wording of condition 53 was amended through an NMA to enable it to be a phased condition so that details of existing and proposed site levels and finished floor levels of buildings are submitted for approval per phase. The reason for the imposition of the condition was in the interests of the visual amenities of the area and to ensure the proposed development is in scale and harmony with its neighbours and surroundings.
- 5.10. The river corridor works are largely complete, however alterations to it were required during the Phase 2 works due to issues picked up during the construction when viewing the previously planned arrangements. This included the tensor slope solution and also drainage arrangements (discussed below). On the basis that the river corridor works have now been largely completed, there are no issues on site in terms of level matters that would need to be corrected and the plans now submitted should reflect the as built arrangement, it is considered acceptable to clear condition 53 for the Infrastructure Phase specifically for the river corridor. The rest of the infrastructure phase (the spine road) levels are to be cleared by 13/00333/DISC and phase levels have also been agreed for phase 1 by 13/00333/DISC. This will also therefore regularise the position as built.
- 5.11. The wording of condition 69 was amended through an NMA to enable it to be a phased condition so that details of the surface water drainage scheme for the site (in broad accordance with the drainage strategy for the Exemplar site), based on sustainable drainage principles and to OCC adoptable standards and an assessment of the hydrological and hydrogeological context of the development, are submitted for approval per phase. The scheme must address a number of specified points. The reason for the imposition of the condition was to seek further detail to demonstrate how a successful scheme can be designed to manage and reduce flood risk, to improve water quality and to improve habitat and amenity.
- 5.12. Condition 69 has previously been cleared for all phases of the development. However, and as referred to above, due to some issues through the river corridor area in terms of the levels, some amendments were required to be made to ensure a drainage arrangement was in place that actually worked. Critically, the drainage features were designed to outfall into the receiving watercourse at a level lower than the bed of the watercourse meaning that they would not have performed the drainage role they were supposed to. Out of necessity an alternative arrangement had to be found. The applicant instructed a civil engineer to re-design the scheme, which involved raising the levels in this area so that the features could function as originally intended. It was also re-orientated so that it did not infringe the flood plain and its dimensions adjusted to ensure it fit albeit retaining the design capacity. In addition, in order to give the depth to the ponds given the river corridor levels, the headwalls and pipe between the pond and river have been omitted and replaced by a high-level cascade overflow. The amended arrangement has been constructed.
- 5.13. The need to change the drainage arrangement is regrettable as the original design was subsequently found to be unachievable, and this has resulted in an arrangement that is perhaps not optimal. However, it has been designed by a civil engineer and it had to be designed within certain constraints given that some work had been completed within the river corridor by the time the problem was found. The drainage arrangement is in place and functioning and I am not aware of any issues

to date. The concerns of the Drainage Officer at OCC are noted in terms of the lack of attenuation (one of the ponds initially appeared to include an inlet with a flow control and the other an infiltration pond), however the information provided demonstrates that the design capacity of the ponds has not changed and given that it has been professionally designed and is completed (and has been for the past couple of years), I am not convinced that the design is unacceptable such that amendments could be insisted on retrospectively or that the current position would be enforced against (given there appear to be no problems to have yet arisen). As such, I consider that the situation as built should be regularised.

- 5.14. The original application was EIA development. The EIA is dated and the changes sought through this DISC could have required further consideration against certain topics of the EIA, however most of the works are already complete and this application simply seeks to regularise matters. On this basis I am satisfied that the EIA is up to date for the purpose of considering this DISC application, particularly as the applicant's own due diligence would have required consideration of works against for example ecological requirements which is the main constraint likely to have been impacted by the changes sought to be regularised. Therefore, the EIA is considered sufficient for the purpose of considering the information provided for this condition application and it has been taken into account in considering this subsequent application.

## **6. RECOMMENDATION**

That Planning Condition(s) 14, 18 (Residential Phase 2), 24, 25 (Infrastructure Phase footways through Residential Phase 2), 31 (Infrastructure Phase), 53 (Infrastructure Phase: River Corridor) and 69 (Infrastructure Phase) of 10/01780/HYBRID be discharged based upon the following:

### Condition 14

The details of the change of boundary treatment to the north-eastern side of plot 233 (between points 107 and 105 on drawing number AL6157C\_3002 Rev C – to the side of the dwelling only) from a beakstone wall to a factory finished black railing as shown on drawing numbers AL6157C\_3002 Rev C titled 'Phase 2 Boundary Setting Out – Areas 5 and 7', AL6157C\_3032 Rev B titled 'Site wide typical detail – Boundary details' and as indicated on proposal image.

### Condition 18

The details of the change of boundary treatment to the north-eastern side of plot 233 (between points 107 and 105 on drawing number AL6157C\_3002 Rev C – to the side of the dwelling only) from a beakstone wall to a factory finished black railing as shown on drawing numbers AL6157C\_3002 Rev C titled 'Phase 2 Boundary Setting Out – Areas 5 and 7', AL6157C\_3032 Rev B titled 'Site wide typical detail – Boundary details' and as indicated on proposal image.

### Condition 24

The details of the footway finish for the Infrastructure Phase through Residential Phase 2 to be the 'Ulticolour product colour Light Buff by Tarmac' as shown on drawing numbers 15-1859 04-1 Rev C09 titled 'Surface Finishes & Kerb Type Plan Sheet 1/4', 15-1859 04-2 Rev C08 titled 'Surface Finishes & Kerb Type Plan Sheet 2/4', 15-1859 04-3 Rev C12 titled 'Surface Finishes & Kerb Type Plan Sheet 3/4', 15-1859 04-4 Rev AC3 titled 'Surface Finishes & Kerb Type Plan Sheet 4/4', 15-1859 10 Rev C03 titled 'Adoptable Construction Details' and 15-1859 11 Rev C02 titled 'Private Construction Details'.

### Condition 25

The details of the footway finish for the Infrastructure Phase through Residential

Phase 2 to be the 'Ulticolour product colour Light Buff by Tarmac' as shown on drawing numbers 15-1859 04-1 Rev C09 titled 'Surface Finishes & Kerb Type Plan Sheet 1/4', 15-1859 04-2 Rev C08 titled 'Surface Finishes & Kerb Type Plan Sheet 2/4', 15-1859 04-3 Rev C12 titled 'Surface Finishes & Kerb Type Plan Sheet 3/4', 15-1859 04-4 Rev AC3 titled 'Surface Finishes & Kerb Type Plan Sheet 4/4', 15-1859 10 Rev C03 titled 'Adoptable Construction Details' and 15-1859 11 Rev C02 titled 'Private Construction Details'.

#### Condition 31

The details of the repositioning of trees along the spine road in the Infrastructure Phase through Residential Phase 2 as shown on drawing numbers 15-1859 45-1 Rev C10 titled 'Combined Services Plan Sheet 1 of 4', 15-1859 45-2 Rev C10 titled 'Combined Services Plan Sheet 2 of 4', 15-1859 45-3 Rev C11 titled 'Combined Services Plan Sheet 3 of 4', 15-1859 45-4 Rev AC3 titled 'Combined Services Plan Sheet 4 of 4' (all approved by 17/00223/DISC) and drawing number 701-800-UA001881-06 titled 'Tree Pit Details Castle Grille/ Sureset'.

The details of the Tensar solution through the river corridor as shown on drawing numbers AL6157\_3900 Rev C titled 'River Corridor – General Arrangement', TD17002D1B Rev B titled 'Developed Elevation on Front Face of TensarTech 40° NaturalGreen System' and 15-1859 02-4 Rev AC4 titled 'Existing and Proposed Level Plan Sheet 4/4'.

#### Condition 53

The details of the levels through the river corridor (as part of the Infrastructure Phase) as shown on drawing numbers 15-1859 02-2 Rev AC1 titled 'Existing and Proposed Level Plan Sheet 2/4', 15-1859 02-3 Rev AC2 titled 'Existing and Proposed Level Plan Sheet 3/4' and 15-1859 02-4 Rev AC4 titled 'Existing and Proposed Level Plan Sheet 4/4'.

#### Condition 69

The details of the amended drainage arrangement relating to the Infrastructure Phase as shown on drawing numbers 15-1859 52 Rev P05 titled 'River Corridor Cross Sections', 15-1859 85-1 Rev P02 titled 'SUDs Feature Area 6 Construction Details', 15-1859 85-2 Rev P01 titled 'SUDs Feature Area 3 Construction Details', 15-1859 86 Rev P01 titled 'SUDs Feature Setting Out', AL6157C3900 Rev C titled 'River Corridor General Arrangement', AL6157C3901 Rev B titled 'River Corridor General Arrangement', AL6157C3903 titled 'River Corridor Planting Plan 1 of 3', AL6157C3904 titled 'River Corridor Planting Plan 2 of 3' and AL6157C\_3905 titled 'River Corridor Planting Plan 3 of 3'.

#### Planning Note

In accordance with Regulations 3 and 8 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended), Cherwell District Council as Local Planning Authority in this case, is satisfied that the environmental information already before it remains adequate to assess the environmental effects of the development and has taken that information into consideration in determining this conditions application.

Case Officer: Caroline Ford

DATE: 27 April 2020

Checked By: Alex Keen

DATE: 4<sup>th</sup> May 2020