

Case Officer: Caroline Ford

Recommendation: Approval

Applicant: A2Dominion

Proposal: Partial discharge of conditions 13 (positioning of bicycle and bin stores), 24 (design and construction details), 31 (landscape design), 53 (site levels) and 84 (ecological construction method statement) (Infrastructure Phase) of 10/01780/HYBRID

Expiry Date: 2 August 2019

Extension of Time:

1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT

1.1. The application relates to the infrastructure phase of the Exemplar development at NW Bicester now known as Elmsbrook. The Phase is largely complete, however there are some areas of the phase that need completing as well as some elements having been constructed without details first being approved. 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. This will enable various parts of the site to be changed or completed in accordance with the details submitted. The detail of the reason for the amendment, the condition number and its original 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:** With regard to the river crossing plan, it is suggested that the finished re-grading to the lowest side of the path near the river should be confirmed to fall away from the edge of the path to avoid runoff from collecting and becoming muddy/ slippery. All re-grading should be sloped with a finish that is level with the top of the kerb. In terms of the boardwalk, a 150mm kickboard on both sides is required to prevent individuals slipping off the edge. A handrail is required for user mobility and safety reasons.

4.2 **OCC TRANSPORT:** No objection to partially discharging conditions 13 and 24 of 10/01780/HYBRID. The relocation of the Sheffield stands is considered acceptable and the details of the boardwalk along the river corridor is sufficient for development. No comment to the other applied for conditions.

4.3 OCC BRIDGES TEAM: An Approval in Principle will be required for the retaining wall. There are some detailed concerns around fencing close to the parapet of the bridge structure, of the safe bearing capacity of the existing ground at the founding level of the gabions (informed by a Geotechnical Investigation), the material proposed for the gabions, the need for pedestrian protection at the top of the gabions, for the potential need for plastic weep pipes to be installed to allow for water build up behind the wall to dissipate and the need for the wall design calculations and drawings for the technical approval process to be submitted. The Approval in Principle should be granted prior to a decision being issued through planning.

4.4 ENVIRONMENT AGENCY: Recommend that CDC do not discharge conditions 31 and 84 based on the information submitted for the following reasons:

- The proposed bridge would restrict the watercourses flow so that flood risk to the development and existing housing is likely to increase contrary to para 163 of the NPPF.
- The EA are not satisfied that the bridge will be set above the 1% annual probability flood event with an allowance for climate change and a minimum 600mm freeboard. No dimensions or measurements have been submitted to illustrate the position of the soffit level in relation to the watercourse and the 1% annual probability flood event plus the climate change allowance. A 35% allowance should be used. It is therefore difficult to determine whether the bridge soffit is appropriate to avoid causing an increased risk of flooding and erosion in a future of climate change.
- The plans do not show the position of the abutments in relation to the natural bank and watercourse. The amount of encroachment into the channel and obstruction to the natural flow regime of the watercourse posed by the proposed bridge is also unclear. Abutments should be at least 1m back from the top of the bank and be wide enough apart to function under flood conditions. This may require flood modelling to demonstrate flow capacity.
- The plans provided illustrate the bridge design is to incorporate three piers. Piers can modify the natural flow regime of the watercourse and increase local flooding and contraction scour. To ensure the flow of the watercourse is not obstructed and to maintain a natural watercourse corridor, bridges should be of a clean span design.
- The drawings provided appear to show a loss of natural bank and encroachment into the channel (through abutments and pillars). No information has been submitted assessing the ecological impact of the bridge crossing. Further information is required to assess the ecological impacts and impacts on biodiversity, to show how the banks will be protected from localised erosion risk resulting from people using the focussed watercourse crossing (often in the form of localised fencing) and how the natural banks of the river will be retained or restored to ensure the continuation of a wildlife corridor along the river.
- There does not appear to be any documents supporting the discharge of condition 31 covering landscape design. The floodplain across the site, as with the rest of the development should contribute towards a net gain in biodiversity, using green infrastructure to address climate change, to provide people with access to nature for health and wellbeing benefits and to achieve clean air goals. Native species and species that provide habitat and

food sources for wildlife as well as the inclusion of SUDs designed for wildlife and access for people can help achieve this.

- The plans indicate bridge piers within a water course situated within a flood plain. This will require a Flood Risk Activity Permit under the Environmental Permitting (England and Wales) Regulations 2016. In order for this to be granted, the crossing of the watercourse must be comprised of a clear spanning bridge, retaining or restoring natural banks to ensure a wildlife corridor and provide capacity for peak flood flows.

5. APPRAISAL

Condition 13 (bicycle and bin stores)

- 5.1. Condition 13 of 10/01780/HYBRID sought details of the positioning of bicycle and bin stores on each phase. The reason for the imposition of the condition was to ensure convenient bicycle and bin stores, to encourage cycling and sorting of waste and a high standard of design.
- 5.2. The applicant has applied to re-discharge condition 13 because, following an OCC inspection of the Phase 1 S278 works, the cycle parking/ stands in front of plot 313 must be relocated. The proposed stands are Sheffield Cycle Stands. The stands are proposed to be removed from their position adjacent and to the north of the bus stop (with the area where they are to be removed reinstated as grass verge) and to position them instead to the south of the bus stop adjacent to the footway to the front of plot 314. The level of the cycle parking area is around 1m higher than the level at the front of plot 314 (but the footway is at that level already). The Highway Authority have confirmed their acceptance to the newly proposed position for the cycle parking and as it will be no more harmful than its existing position, I would agree that the position proposed is acceptable.

Conditions 24, 31, 53 and 84 (bridge details)

- 5.3. The application then seeks to agree the details relating to two main issues and the conditions relevant to those. The first relates to the river crossing boardwalk located to the north of the southern road bridge connecting residential phases 1 and 2 and the second relates to the northern road bridge which is incomplete, and which requires a retaining structure to enable access to the bridge to complete the works.
- 5.4. The referred to conditions relating to these matters are condition 24 (which sought full details of vision splays, bridge details, surfacing, planting traffic calming or the roads, paths, bridges and other parts of the access routes), 31 (which sought details of the landscape design including various points including the design and construction of bridges within open spaces areas), 53 (which sought proposed site levels) and 84 (which sought details of pedestrian and cycle watercourse crossings).

River Crossing Boardwalk

- 5.5. Considering each issue in turn, firstly, the river crossing boardwalk. The original approval for the site included the principle of a river crossing as a boardwalk in the location now being considered and details of pedestrian and cycle watercourse crossings were sought by condition 84 with the reason for the imposition of the condition being that bridges would need to be designed so as to avoid increased flood risk and erosion.
- 5.6. At the point that the development was being undertaken on residential phase 2, a number of issues were encountered with the levels through the river corridor and the

drainage arrangement. The Contractor at the time had to make various changes within the area to achieve a satisfactory outcome. Their advice at the time was that a river crossing in this area would be intrusive due to the level of vegetation needing to be removed and the possibility of the structure becoming larger than perhaps originally intended due to the way it would need to be constructed. Their suggestion, on the basis of the proximity of other bridges (i.e. the road bridge) and the likely accessibility of it, was that it would be sensible to consider not implementing the crossing in this area. However the original Case Officer felt a crossing in this area was important to enable accessibility through the river corridor (the main open space on the site and which is to be extended further beyond the Exemplar site). A crossing therefore was sought to meet the original aims.

- 5.7. Prior to agreeing final details however, a bridge arrangement was installed in the form now on site and as show on the submitted information. The arrangement is a boardwalk which is relatively unobtrusive and which sits relatively low and is just constructed of decking boards across the river supported by three posts (one on each side and one centrally therefore not representing a clear span structure and having a post in the middle of the watercourse). In order to reach the crossing from the east, there are a series of steps leading towards the crossing therefore it is not fully accessible for all.
- 5.8. The boardwalk is in place and has been for some time now. It is not fully accessible due to the presence of steps leading to/ from it on the eastern side. The Council's Landscape Officer has suggested some improvements to improve the health and safety for users of the structure. However, given its position and that the boardwalk is not necessary to achieve wider accessibility objectives, it is not considered necessary to insist on it being upgraded to include a handrail/ kickboards for safety reasons. This is particularly the case given that it is unlikely to be used by those with a pram, or a wheelchair user for example. In addition and whilst the fact it is not fully accessible is regrettable, there is an alternative route, which, whilst slightly longer is accessible and available. There are also other areas within the river corridor which include steps in some areas although which can be worked around via accessible routes, which also applies in this case.
- 5.9. The Environment Agency have recommended that the details of the boardwalk are not approved due to the potential for increased flood risk and the potential to cause an obstruction to the natural flow regime of the watercourse. In flood risk terms, the structure may increase risk to a degree, mainly via the potential for build up of debris being caught around the posts. This is because if flood waters were to increase significantly through the channel, then water could flow over the structure given its simple nature and mean that it is inaccessible for short periods of time. It is unlikely to cause serious impacts to nearby residential dwellings given the levels of those in comparison to the river itself (with levels being raised either side). The build up of debris would be a matter to ensure is maintained and the developer uses a Management Company for the management and maintenance of the open spaces.
- 5.10. The Environment Agency have also raised concerns in terms of ecological impact due to the potential for bank erosion and to ensure the corridor continues to be suitable for wildlife. The structure has been installed without the need to remove significant areas of vegetation. Whilst there are risks into the future, the risk is there in any event due to the open nature of the channel and its accessibility even without a river crossing. In this context, it is unlikely that future impacts would be significant. A larger more involved structure would have likely been more intrusive and harmful to biodiversity whilst it was put in.
- 5.11. On the basis of the above and whilst it would have been preferable for the applicant to have agreed details prior to implementing the bridge proposals, I am not

convinced that what has been installed is unacceptable or would cause significant planning harm now or into the future. As such, it is recommended that this matter be regularised and the details approved.

- 5.12. The Environment Agency have raised some concern regarding the landscape scheme and the lack of detail, however the landscaping through the river corridor has not changed; the details were submitted against condition 31 due to the reference specifically to the design and construction of bridges within open space areas.
- 5.13. The Environment Agency also advised that a Flood Risk Activity Permit would be required under the Environmental Permitting (England and Wales) Regulations 2016 and advice was provided as to what form the watercourse crossing would need to take to be granted. This was however queried because the watercourse is not a 'main river'. The EA confirmed that this was correct and that a flood risk permit is not required. In light of this, the bridge would not require alteration to meet EA permitting requirements.

Northern Road Bridge

- 5.14. Turning next to the cladding on the second bridge. The final finish for the bridge, in line with the southern road bridge is to be a masonry cladding (similar in appearance to the beakstone used on the stone plots on the site) and the second bridge is almost fully clad. However, there is a section which is incomplete due to the need to redesign the retaining structure at the bottom of the bank to enable access to the bridge to complete the works and to stabilise the highway. The submitted information seeks to agree the details of this retaining structure.
- 5.15. Two options were initially provided for consideration – one utilising a gabion cage arrangement with the slope arranged to suit and the second using a bafix retention system which would have given a stepped arrangement down the slope. Upon querying this, additional information was provided to show that for either section proposed, the proposal would be a free-standing structure, adjacent to the bridge enabling the works to clad the bridge to be completed and the Council's preference out of the two options was sought.
- 5.16. From a visual impact point of view, the gabion arrangement was considered to be the preference as this would tie in with gabion features elsewhere on the site, including elsewhere within the river corridor. In response to this, two further plans were provided to show the proposed arrangement in greater detail.
- 5.17. No comments were originally received in relation to this matter through the Consultation process however given that I am aware the OCC Bridges team have been involved in overseeing the construction of the bridges, I contacted the team to seek a response to the two detailed plans and a risk assessment. The advice received set out some detailed concerns, all of which related to technical matters relating to the construction of the gabions and their proximity to the bridge and the potential need for an approval in principle (sought before this was approved through planning). This is however a separate technical process and the approval of details to discharge conditions does not override the need to comply with and seek approval through technical approval processes (similar to the processes involved in seeking approval for highway works under the Highway Act). Upon providing the applicant's response to the points raised by OCC and querying matters, no further advice has been received from OCC. Should there be any changes that are required through a later approval process, then this could result in a need for a further application to re-discharge the condition depending upon what that change relates to. A planning note is recommended to remind the applicant that an approval in

principle process may be required and to recommend they contact the OCC Bridge/ Structures team for further advice.

- 5.18. On the basis of the above, whilst there are some outstanding concerns raised regarding the river crossing boardwalk and the stabilisation for the second bridge, it is my view that the proposals are, on balance, acceptable and are unlikely to cause significant harm in environmental terms. I am not convinced that the risks are unacceptable in this case and, given that part of the development has already been completed (and it is unlikely that this would be a matter that the LPA would enforce) and that the other part will be beneficial to complete in terms of the cladding of the bridge, I consider that it is acceptable to approve the details submitted.

Other Matters

- 5.19. The original application was EIA development. The development was always proposed to include a river crossing in the position of the boardwalk and bridges along the road corridor so these were within the scope of the approved development. The details of these matters were reserved to be dealt with by condition and therefore would not have been dealt with in detail within the EIA. Nevertheless, the EIA would have considered matters of ecology especially within the river corridor to ensure no harm and to secure net gains. In this case, the boardwalk has already been provided and whilst the retaining structure has not and this is close to the river, the information already before the LPA is considered to be sufficient to consider the details submitted. Therefore, the EIA is considered sufficient for the purpose of considering the information provided for this discharge of condition application and it has been taken into account in considering this subsequent application.

6. RECOMMENDATION

That Planning Condition(s) 13, 24, 31, 53 and 84 (for the infrastructure phase) of 10/01780/HYBRID be partially discharged based upon the following:

Condition 13

The details of the repositioned cycle parking in the infrastructure phase adjacent to the bus stop at the southern entrance to the site as shown on drawing number ICS-2024 57 P03 titled 'S38 Remedial Works – Cycle Stand'.

Condition 24

The details of the boardwalk and path either side within the River Corridor as shown on drawing numbers AL6157C_LSK006 Rev A titled 'River Corridor Boardwalk Co-Ordinates', ICS-2024 060 Rev P01 titled 'River Crossing Plan' and 701-809-UA001881-03 titled 'Boardwalk Construction Details'.

Condition 31

The details of the proposed retaining structure to enable the cladding to the Northern highway bridge to be completed as shown on drawing numbers 500-001-10036317-01 titled 'Proposed General Arrangement' and 500-002-1036317-01 titled 'Embankment Stabilisation Construction Sequence', Health and Safety Designer's Risk Assessment document issue date 18/10/2019 and email from Barton Willmore dated 27/08/2019 confirming the Gabion Walls would be filled with locally sourced stone.

The details of the boardwalk and path either side within the River Corridor as shown on drawing numbers AL6157C_LSK006 Rev A titled 'River Corridor Boardwalk Co-Ordinates', ICS-2024 060 Rev P01 titled 'River Crossing Plan' and 701-809-UA001881-03 titled 'Boardwalk Construction Details'.

Condition 53

The details of the proposed retaining structure to enable the cladding to the Northern highway bridge to be completed as shown on drawing numbers 500-001-10036317-01 titled 'Proposed General Arrangement' and 500-002-1036317-01 titled 'Embankment Stabilisation Construction Sequence', Health and Safety Designer's Risk Assessment document issue date 18/10/2019 and email from Barton Willmore dated 27/08/2019 confirming the Gabion Walls would be filled with locally sourced stone.

Condition 84

The details of the boardwalk and path either side within the River Corridor as shown on drawing numbers AL6157C_LSK006 Rev A titled 'River Corridor Boardwalk Co-Ordinates', ICS-2024 060 Rev P01 titled 'River Crossing Plan' and 701-809-UA001881-03 titled 'Boardwalk Construction Details'.

Planning Notes

1. 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.
2. The applicant is advised that whilst the Local Planning Authority consider the details of the retaining structure to enable the cladding to the Northern highway bridge to be completed to be acceptable, a separate technical approval process may be required to be completed with Oxfordshire County Council as the Highway Authority and in respect of the bridge structure. The applicant is advised to contact Oxfordshire County Council regarding any necessary approvals prior to work commencing to ensure that technical approval is secured.

Case Officer: Caroline Ford

DATE: 27 April 2020

Checked By: Alex Keen

DATE: 01 May 2020
