

Ms Emily Catcheside
Oxfordshire County Council
Planning Implementation
County Hall New Road
Oxford
Oxfordshire
OX1 1ND

Our ref: WA/2021/129485/03-L01
Your ref: R3.0138/21
Date: 02 June 2023

Dear Ms Catcheside

The dualling of the A4130 carriageway (A4130 widening) from the Milton Gate junction eastwards, including the construction of three roundabouts; - a road bridge over the great western mainline (Didcot Science Bridge) and realignment of the A4130 north east of the proposed road bridge including the relocation of a lagoon; - construction of a new road between Didcot and Culham (Didcot to Culham River Crossing) including the construction of three roundabouts, a road bridge over the Appleford railway sidings and road bridge over the river Thames; - construction of a new road between the B4015 and A415 (Clifton Hampden bypass), including the provision of one roundabout and associated junctions; and - controlled crossings, footways and cycleways, landscaping, lighting, noise barriers and sustainable drainage systems

Land between Didcot to Clifton Hampden

Thank you for re-consulting us on the above application following the submission of additional details. We have reviewed the applicant's Regulation 25 Response (April 2023), the applicant's response to Environment Agency BNG comments (April 2023) and the amended landscape masterplan.

In our previous response, we stated our concerns that insufficient attempt to provide enhancements throughout the scheme on local watercourses within the application area had been provided.

Having considered the additional information submitted, we acknowledge the constraints the applicant has outlined in relation to watercourse enhancements in areas beyond their control. While we remain disappointed that additional physical improvements to the Moor Ditch have not been forthcoming, we recognise that landscape and biodiversity enhancements are being proposed including protection and enhancement of water features where feasible; a small biodiversity net gain in river units; off-site compensation; protection and enhancement of areas along the river

Thames, alongside additional landscaping measures as now proposed within the revised landscape masterplan. On balance, while we remain disappointed that further enhancements to local watercourses are absent from the proposal, we acknowledge that the applicant has done enough to satisfy the majority of policy requirements and therefore withdraw our outstanding objection.

Environment Agency position

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

As you are aware, the discharge and enforcement of planning conditions rests with your authority. You must therefore be satisfied that the proposed conditions meet the requirements of the 6 tests in paragraph 56 of the National Planning Policy Framework.

Please notify us immediately if you are unable to apply our suggested conditions to allow further consideration and advice.

Condition 1

The development shall be carried out in accordance with the submitted flood risk assessment (Didcot Garden Town HIF 1 Scheme Environmental Statement Volume III Appendix 14.1: Flood Risk Assessment (FRA) September 2021 by AECOM Limited) and the following mitigation measures it details:

- Table 4.1: Mitigation measures proposed for the Didcot to Culham River Crossing
- Table 4.4: Mitigation measures proposed for Moor Ditch and tributaries
- Table 4.6: Mitigation measures proposed for Clifton Hampden Bypass

And mitigation measures shown in the accompanying technical notes:

- Flood Risk Technical Note by AECOM dated 20 July 2022
- Flood Risk Technical Note: Additional Information Addendum by AECOM, reference RIV_PD-ACM-EWE-SW_ZZ_ZZ_ZZ-TN-FR-0002, dated 08/12/2022

These mitigation measures shall be fully implemented and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason(s)

To ensure the development remains safe and to prevent flooding elsewhere by ensuring that compensatory storage of flood water and flood mitigation is provided. This is in line with paragraph 167 of the National Planning Policy Framework.

Condition 2

No development shall take place until such time as a scheme for level for level compensatory storage, has been submitted to, and approved in writing by, the planning authority. The scheme shall include measures to identify how the compensatory storage and any altered or proposed culverts will be inspected and maintained throughout the lifetime of the development.

The approved scheme shall be fully secured, implemented, and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the planning authority

throughout the lifetime of the development.

Reason(s)

To ensure that there are no detrimental impacts to flood storage or flood flow routes. This is in line with paragraph 167 of the National Planning Policy Framework.

Note to planning authority: The submission has shown that level for level compensatory storage can be provided. This condition is required to ensure changes made at the detailed design phase of the Scheme are captured and secured.

Condition 3

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the planning authority. The remediation strategy shall be implemented as approved.

Reason(s)

To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

Condition 4

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason(s)

To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

Condition 5

No development shall take place until a Construction Environment Management Plan (CEMP) is submitted to and approved in writing by the Planning Authority.

The CEMP shall include the following elements:

- Measures to be employed to avoid or reduce impacts on species and habitats and to avoid peak fish migration and spawning seasons
- Details of fish rescue and translocation
- Pollution control measures
- Bio security measures to prevent the spread of invasive species
- Timing of the works across the river Thames
- Timing of and proposed scope of contact with Environment Agency waterways officers through the period of works adjacent to and across the river Thames
- Details of any proposed restriction to the width or navigable height of the river Thames
- Details of any proposed restriction or closure of navigation of the river Thames
- Details of any barges, floating plant or other vessels to be used during the works adjacent to and across the river Thames

- Measures to be employed during construction adjacent to and across the river Thames to minimise environmental impacts (considering both potential disturbance and pollution)
- Details of measures to ensure any damage or disturbance to the towpath, banks or riverbed of the river Thames will be repaired following completion of the works

Reason(s)

To ensure that the development protects the natural environment and is prevented from contributing to unacceptable levels of pollution. This is in line with paragraph 174 of the National Planning Policy Framework.

Condition 6

No development shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, has been submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- details of maintenance regimes
- details of any new habitat created on-site
- details of treatment of site boundaries and/or buffers around water bodies
- details of management responsibilities

Reason(s)

To ensure that the development protects the natural environment and delivers biodiversity enhancement. This is in line with paragraph 174 and 180 of the National Planning Policy Framework.

Advice to Planning Authority

Sequential test

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

In accordance with the National Planning Policy Framework (paragraph 162), 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

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 164). 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 165 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.

Flood warning and emergency response

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The [planning practice guidance](#) (PPG) to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a [design flood](#) and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to '[Flood risk emergency plans for new development](#)' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 167 of the NPPF and the guiding principles of the PPG.

Advice to Applicant

Other permits and licences

Flood Risk Activity Permit

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 the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a 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.

Accommodations Licence

The Environment Agency is the navigation authority for the River Thames, a public river

regulated by statute. Successive Thames Conservancy Acts have declared it unlawful for any person to install an accommodation in or over the public river without a licence from us.

The proposed development will need an Accommodations Licence under Section 60 of the Thames Conservancy Act 1932. Enquiries can be sent by email to THAMESACCOMMS@environment-agency.gov.uk.

For further guidance please visit [River Thames: accommodation licensing requirements - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/river-thames-accommodation-licensing-requirements).

Closing comments

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 sincerely

Miss Sarah Green
Sustainable Places - Planning Advisor

Direct dial 0208 474 9253

Direct e-mail planning_THM@environment-agency.gov.uk