

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

**Our ref:** WA/2021/129485/02-L01  
**Your ref:** R3.0138/21  
**Date:** 13 March 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 addition and revised information submitted by the applicant in response to your request made Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Your request was dated 26 April 2022.

Where individual reports and/or plans are of specific relevance to our response, we have referred to them.

#### **Nature conversation and biodiversity**

The additional details submitted in relation to this topic do not satisfactorily address our earlier concerns. We therefore **maintain our objection** on grounds of the impact to nature conservation and biodiversity as set out in our response dated 14 April 2022.

We acknowledge that it is proposed to provide mitigation measures on the Meadow Brook and also within the Hanson restoration area. However, drawing number GEN\_PD-ACM-EWE-DGT\_ZZ\_ZZ\_ZZ-FG-HD-0010 appears to show that the Meadow Brook is outside of the red line boundary. The application should examine and demonstrate mitigation measures which can be implemented locally across all water features within the application area. Full consideration of on-site, local mitigation and enhancement should be considered before off-site mitigation is proposed.

Further information should also be provided in relation to enhancements which can be made to all culverts associated with this development, not just culverting on the Moor Ditch.

There are many waterbodies referred to Section of the Environmental Statement Addendum (updated December 2022) which could support protected or notable species but are not scoped into the screening and have not been mentioned in the Biodiversity Net Gain assessment.

These include:

- 4.3.18 (WB6, part of the Moor Ditch),
- 4.3.22 (WB7, an artificial lake),
- 4.3.28 (WB8, flows clockwise and joins Moor Ditch at A4130)
- 4.3.33 (WB9, Moor Ditch section),
- 4.3.43 (WB18, ponded area located next to the railway sidings leading from Hanson quarry),
- 4.3.50 (WB19, large pond located south of Appleford Crossing in a garden),
- 4.4.20 (WB05, roadside drainage ditch which flows along the farm track, south of A415 - flows east-west and joins and unnamed tributary of the Thames),
- 4.4.27 (WB16, wetland area to the south of the River Thames within the floodplain).

### **Overcoming our objection**

To overcome our objection the applicant will need to address our concerns and ensure that opportunities to deliver protection and enhancement of localised watercourses and water features are proposed.

### **Flood risk**

On 14 April 2022, we objected to the proposal as the applicant has not demonstrated to our satisfaction that fluvial flood risk had been sufficiently assessed and proposals made to manage identified risk to ensure the development was safe, without increasing flood risk elsewhere.

We have reviewed the Flood Risk Technical Note: Additional Information Addendum dated 08/12/2022 Revision 3.

The revised technical note summarises the further investigations that have been undertaken to investigate the increased flood depths due to the scheme which we considered to be beyond an acceptable model tolerance.

The report confirms that additional testing was undertaken in relation to the area of land referred to in the report as the “area of concern” (on the south bank of the river Thames). This is the area that we previously identified as being at increased flood risk due to the scheme that we could not attribute to model tolerance. We are now satisfied with the evidence presented within the applicant’s report and the conclusions made in

relation to this area of land.

The additional work carried out by the applicant has now identified an area adjacent to the scheme on the north bank of the river Thames where increased flood levels ranging between 10mm – 20mm are likely as a result of scheme as shown in Figure 12 of the report.

The applicant has confirmed that this area of increased flood risk is included within the planning application boundary and is proposed to be incorporated within the flood risk compensation and mitigation strategy.

Based on this additional information, in combination with the flood compensation and mitigation measures previously identified, we withdraw our flood risk objection to this proposal.

### **Water Quality and Water Framework Directive**

On 14 April 2022, we objected to the proposal as the applicant had not submitted a full WFD assessment in accordance with the EIA scoping report. We have reviewed the amended WFD assessment submitted as Appendix 14.2, dated December 2022. We are satisfied with the findings and recommendations of this assessment, and we therefore withdraw our objection on these grounds.

### **Suggested planning conditions**

Without prejudice to our remaining concerns in relation to biodiversity impact, we consider it would be helpful to your decision making process to understand the planning conditions we will recommend in relation to flood risk and water quality, should our remaining concerns be overcome.

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.

### **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](mailto: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](mailto: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

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