

**Case Officer:** Linda Griffiths

**Applicant:** Cherwell District Council

**Proposal:** Discharge of Conditions 7 (proposed means of access), 9 (details of dog & litter bins, and interpretation boards), 10 (details of pedestrian bridges) - change of use from agricultural(arable) to informal recreation with public access - of 19/01351/CDC

**Ward:** Fringford and Heyfords

**Councillors:** Cllr Ian Corkin; Cllr James Macnamara; Cllr Barry Wood

**Reason for Referral:** The Council is the applicant

**Expiry Date:** 17 February 2020

**Committee Date:** 12<sup>th</sup> March 2020

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located to the south west of Bicester between Chesterton Village and the B4030 Vendee Drive, directly north of Bicester Park and Ride. It comprises 44 hectares of agricultural land. The site is reasonably level but falls away towards the south and west, while rising towards the northern most part of the site. The site is generally bounded by mature deciduous hedgerows. The Kingsmere development is situated to the east of the application site on the opposite side of Vendee Drive.
- 1.2. A small area of CPRE (Campaign to Protect Rural England) managed woodland (0.7ha) is located at the north west corner of the site, and a balancing pond which has been created in respect of the SUDS drainage infrastructure for the Kingsmere Phase 2 development is also situated in the northern part of the site.

## **2. CONSTRAINTS**

- 2.1. The application site is within an archaeological constraint priority area and the Chesterton Conservation Area lies immediately to the west of the site. Gagle Brook runs close to the western boundary between the site and Chesterton Village.
- 2.2. Two public rights of way cross through the site, to the northern and southern part of the site, these being footpath numbers 161/2/10 and 161/1/10.
- 2.3. The site constraints have also identified that the site could be potentially contaminated and lies within a minor aquifer. A number of protected species may also be present within the site. The land is classified best and most versatile category 2 and 3 agricultural land.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks to discharge a number of conditions attached to the planning permission relating to the change of use of the land for informal recreation purposes (application number 19/01351/CDC refers). The conditions relate to the submission of new maintenance and pedestrian gates into the site (condition 7), submission of details relating to dog bins, litter bins and interpretation boards (condition 9) and details of any proposed pedestrian bridges that will be required over existing ditches (condition 10).

#### **4. RELEVANT PLANNING HISTORY**

- 4.1. The site forms part of the South West Bicester Phase 2 development which was granted outline planning permission in May 2017 (reference 13/00847/OUT). Phase 2 is a strategic allocation in the Cherwell Local Plan 2011-2031 under Policy Bicester 3 and has consent for up to 709 dwellings. The Section 106 Agreement attached to the outline consent secures the transfer of this land to the District Council on first occupation of the dwellings on Phase 2 Kingsmere, for recreation purposes and the creation of a community woodland. The transfer of this land to CDC is imminent.
- 4.2. An application for the change of use of this land for informal recreation purposes was considered and approved by the Planning Committee in October 2019 (19/01351/CDC refers). This application seeks to discharge a number of conditions attached to that planning consent.

#### **5. RESPONSE TO CONSULTATION**

- 5.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

##### CONSULTEES

- 5.2. OCC HIGHWAYS: **no objections** to conditions 7 and 10. **No comment** in respect of condition 9.
- 5.3. OCC PUBLIC RIGHTS OF WAY: **No Objection** subject to the amendments which remove the proposed kissing gates from the proposal and replaces them with single openings of not more than 1.2m wide in accordance with the submitted detail for both the northern and southern pedestrian access points.

#### **6. RELEVANT PLANNING POLICY AND GUIDANCE**

- 6.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

##### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- ESD15 - The Character of the Built and Historic Environment

- Policy Bicester 3 – SW Bicester
- ESD10 – Protection and enhancement of biodiversity and natural environment

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C32 – Provision of facilities for disabled people

#### 6.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

### 7. APPRAISAL

#### Condition 7

- 9.1. This condition requires detail of the proposed maintenance gates and pedestrian gates, together with a time frame for their installation. The applicant met on site with the Public Rights of Way officer from OCC to discuss and agree the public access requirements and nature of the gates. The installation of mobility kissing gates on the position of the southern and northern Public Rights of Way (PRoW) off Vendee Drive was not advised by the Public Rights of Way Officer because under Section 147 of the Highways Act 1980, OCC powers are limited to only authorising styles and gates where they are necessary for the prevention of ingress or egress of animals, which is not the case here. It is therefore proposed that the kissing gates will not be installed and that the PRoW points of access shall be open 1.2m wide openings, defined by a 150mm square timber post either side of the entrance in compliance with BS5709:2018 Gaps, gates and stiles specification. The posts are to be of locally sourced oak set in concrete foundations. The existing post and wire fencing shall be replaced with sturdy timber post and rail. The surface will remain as a natural regenerating sward. A galvanised field gate is proposed for maintenance access which is acceptable to OCC.
- 9.2. Having regard to the above comments, the application has been amended accordingly. The proposed galvanised steel field gate is appropriate for this rural location and the 1m wide opening now proposed in lieu of kissing gates is acceptable. It is recommended therefore that this condition can be discharged as submitted.

#### Condition 9

- 9.3. This condition requires detail of dog and litter bins and interpretation boards, together with their locations to be submitted and agreed. It is proposed that the dog and litter bins, and the interpretation boards will be placed within the vicinity of the access points, a further interpretation board will also be placed near the pedestrian entrance of the balancing pond field. The interpretation boards will be low lectern type boards suitable for children, and a larger noticeboard type which will be used to

show informative plans and visualisations. The bins and boards will be installed in concrete foundations.

- 9.4. Having regard to the above, it is considered that the board and bin types proposed are acceptable and appropriate for this rural location and it is recommended that this condition can therefore be discharged accordingly.

Condition 10

- 9.5. This condition requires details of the pedestrian bridges which will be necessary over existing drainage ditches to be submitted and approved. The bridges proposed are to be constructed of timber sleepers with hand rail to one side and will be a minimum of 1m wide. Each bridge will be dug into the bank to provide firm level ground to ensure the bridge is level and secure.
- 9.6. The bridge design proposed is considered acceptable for a rural location and for the use proposed, that is walkers, who will be the main users of this new recreation facility. It is therefore recommended that this condition can be discharged.

**8. PLANNING BALANCE AND CONCLUSION**

- 8.1. The proposed details comply with the relevant Development Plan policies and guidance and are acceptable, and it is therefore considered that the conditions should be discharged accordingly.

**9. RECOMMENDATION**

RECOMMENDATION – **APPROVAL** AS SET OUT BELOW

**Condition 7**

Approval is given for the proposed maintenance and access gates as shown on drawing numbers ES/LS/001 Rev C; ES/LS/002; 03/570 Rev A and gate detail H17 accompanying this application and as clarified by the detail and information in the applicant's Addendum received 10<sup>th</sup> February 2020.

**Condition 9**

Approval is given for the details and locations of the litter bins, dog bins and interpretation boards as shown on drawing numbers ES/LS/001 Rev C and as clarified and explained in the applicant's written statement accompanying the application.

**Condition 10**

Approval is given for the details and locations of the pedestrian bridges as shown on drawing numbers ES/LS/001 Rev C and as clarified and explained in the applicant's written statement accompanying the application.