

**Site Address: Land To East Of Webbs
Way, Kidlington**

15/00979/F

Ward: Kidlington North

District Councillor: Cllrs Sandra Rhodes and
Douglas Williamson

Case Officer: Gemma Magnuson

Recommendation: Approval

Applicant: Mr Colin Coles

Application Description: Change of use from agriculture to a private fishing lake and associated landscaping

Committee Referral: Called in by Local Member

Committee date: 06 August 2015

1. Site Description and Proposed Development

- 1.1 The site consists of a parcel of land south-east of the Webbs Way cul-de-sac, on the north-eastern edge of the village of Kidlington. The site is in the Oxford Green Belt and forms part of the Kidlington Church Street Conservation Area. Public Footpath ref: FP 265/7 runs adjacent to the eastern boundary of the site. The Rushy Meadows SSSI is within 2km of the site. Legally protected and Notable/ UK BAP Priority & Section 41 Species have been identified within 250 metres of the site.
- 1.2 The proposed development would involve the creation of a private fishing lake approximately 92 metres by 58 metres at its widest points. The depth would reach a maximum depth of 3 metres. It is anticipated that the lake would generate 1500m³ of cut with 1000m³ of fill, with a remaining 500m³ of spoil material. The spoil would be used to create a bund alongside the public footpath for a length of approximately 100 metres. The height of the bund would be 50cm and this would be landscaped. A further bund is proposed to surround the fishing lake itself, with an approximate height of 80cm, the purpose of which would be to prevent flooding.
- 1.3 The site would be accessed via the existing access from Webbs Way. If constructed, an access would be provided via the curtilage of the dwelling approved as part of application refs: 13/00525/OUT and 15/00029/REM where access to the land was included.
- 1.4 The lake would be for private recreational use and would be stocked with carp. The development would consist of the lake and bunds only. No buildings or areas of hardstanding are proposed as part of the application.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter (32 sent), site notice and press notice. The final date for comment was 16 July 2015. 17 responses were received, all objecting to the application. Due to the large number of responses the comments have been summarised, please refer to electronic file for full versions (www.cherwell.gov.uk). The following issues were raised:

- suspicious as to what intentions are given that it is a very large lake
- inconvenienced in short term by development
- reference to position of approved dwelling
- Flooding – high water table
- Pleased spoil would remain on site – impact of bund on flood risk
- Is access sufficient to serve lake?
- Will cutting to make hay require a tractor, trailer and bailer – how will they access

site?

- Understand it is for personal use but no-one can foresee what future holds. If it were commercial in future congestion would be intolerable.
 - Could planning restrict so lake can never be used commercially?
 - No building to be erected – Green Belt
 - Would attract other people with ulterior motives
 - No fence would lead to trespass in future, concern to neighbouring properties
 - Works would not preserve openness of Green Belt and would conflict with purposes of including land within it, contrary to Para. 90 of NPPF
 - Topography of site would alter and so inappropriate development in Green Belt
 - Bund out of character with current topography
 - Well used public footpath – bund will limit enjoyment of footpath and impact on openness of Green Belt
 - Describing site as “redundant agricultural land” is misleading – attractive tranquil area of countryside, has nature conservation interest, suitable for protected species, replacing with artificial habitat not justification for development
 - Site contributes to character and appearance of Conservation Area, development would have adverse impact on Conservation Area and diminish importance
 - Access and parking for visitors
 - Vehicular access required for future maintenance
 - Safety risk to children, fencing would detract from openness of Green Belt
 - Contractors vehicles – amount of soil that would need to be moved
 - Applicant will be looking for a return on expenditure – case will be made that this is a leisure facility, doubt fishing enthusiasts will want to pay charges that would be made at the lake
 - Lack of detail in application
 - Fish will need oxygenation
 - Buildings must be required e.g. a clubhouse
 - Loss of pleasant view
 - Open space worth preserving in rapidly expanding ‘village’
 - Contrived and out of context
 - Upset ecological balance
 - Contrary to Policy ESD 16 of Cherwell Local Plan
 - Plenty of fishing opportunities in area, canal and river
 - No natural water river/water source
 - Prone to drought and flooding
 - No overflow facility
 - Oxford clay can dry out and crack losing water holding ability
 - Site has previously experienced flooding
 - Will Thames Water be commenting on requirement to fill lake initially and to top up in drought? How will water be transferred to lake?
 - Lack of detail of buildings for filtration and treatment of water is either naïve or deliberately evasive
 - No immediate supervision of lake – owner has duty of care – fencing required
 - Attraction of vermin; gulls and rats
- Council will need to audit users – how many friends can visit, how often can it be used
- Reference to pre-app advice – different constraints identified
 - Two people to be employed and opening hours, clearly commercial
 - Should be dismissed as a pure folly
 - Mr and Mrs Coles are in business of owning and managing fisheries – web links provided
 - Close proximity to badger setts, will obliterate foraging area
 - Applicant doesn’t live in Kidlington
 - Dwelling clearly intended for conversion to flats
 - River and canal can be used for fishing
 - Dangerous precedent
 - Impossible to control private use

- Adverse impact on Council's Green Infrastructure Network, contrary to Policy ESD18
- Adverse impact on Local Landscape Character and Habitats, contrary to Policy ESD13
- Environmental Impact Assessment required
- Dredging will be required
- It will be difficult to resist further development
- In response to reduced height of bund to 50cm, Landscape Officer now considers acceptable after saying in pre-app advice that it would change landform detrimentally.
- Even if no bund, dense hedge is proposed affecting openness of Green Belt and enjoyment of footpath
- Banks around lake will have much greater impact than bund 0 water level 1.3 metres below
- Banks around lake would be almost 1 metre high affecting openness of Green Belt
- Very artificial looking construction
- Views of the lake would be dominated by the bunds
- Public access, amenity and ability to roam fields has been a right for at least 30 years. Development will curtail access and visual amenity
- Public Right of Way is heavily used and part of Kidlington Circular Walk
- No detail of feasibility of construction
- Lake not at foot of hill, leaking if clay lining fails, repairs need drainage of lake as no outflow channel, water table is low, depth is likely to be no more than 2 metres
- No full geological survey has been commissioned, no results of test holes
- Borehole details submitted is many years old
- No clarity on number of angling stations proposed, could 15 – 30 fishers (guests) be hosted at any one time?
- No justification for development here

3. Consultations

3.1 Kidlington Parish Council - Object to the application for several reasons:

1. The detriment to existing landscape and accumulation of material will affect the openness of the area and the adjoining Green Belt.
2. This application covers part of Flood Zones 2 and 3 and no proper flood risk assessment has been completed with this application.

The proposed development is also contrary to the following Policies of the Cherwell Local Plan:

1. Policy GB2(ii) as the proposed fishing lake would have a detrimental impact upon the rural landscape with a substantial change in the character of the area.
2. Policy C1 as it will also change the character of the area altering the balance for animal habitats and biodiversity in the area.
3. Policy C4 as existing habitats will be threatened by the development of the fishing lake.
4. Policy C7 as the provision of a fishing lake in this location presents a substantial alteration to the topography of the area and the landscape setting of this part of Kidlington.

Should this application be granted KPC wishes to request that a Traffic Management Scheme for the initial works of the lake is included as part of the conditions of granting planning permission.

Cherwell District Council Consultees

- 3.2 **Ecology Officer:** I do not have any objections to the proposals on ecological grounds. As long as the recommendations and enhancements stated within the ecological report are carried out

there is likely to be an overall gain for biodiversity on site. I could not see plans for access etc.. on site and am assuming there will not be a need for vehicles to access the site once construction is complete? If this is not the case this needs to be addressed as cars parking on site or track construction will have its own impacts.

With reference to the badgers in close proximity to the site, the Ecology Officer considers that the development will not impact upon the existing sett, and badgers can continue to use the site long-term.

- 3.3 **Landscape Officer:** No objection in principle. The existing developing scrub, particularly to the site boundaries and the hedgerow to the north provide visual mitigation, wildlife habitat and amenity to local residents and users of the PRoW. Therefore this vegetation should be protected and retained. A hedgerow and scrub survey is required to ensure that a 'contractor's plant exclusion zone' is considered and drawn on a set of landscape proposals. The scrub in the southern area is worthy of retention. Temporary fencing is required. The other concern is the height and gradient of the mound aligning itself with the PRoW. This may be too oppressive an un-natural looking for users of the PRoW. I would prefer to the excess subsoil sans topsoil graded sensitively into the site but avoiding root protection zones. Some low mounding will be appropriate for the applicant's privacy from users of the PRoW. In order to protect offsite vegetation from damage on the western boundary I would prefer to see the outline an position of the lake revise to allow for a new hedgerow with trees on the boundary. Standard landscape and hedgerow retention conditions are required.

Additional comments received 06 July 2015

- 3.4 I wish to express a concern regarding the level of detail to mitigate potential flooding to adjacent residents properties/gardens in the event of an extreme sustained downpour. There appears to be no evidence of how overflowing and fish-polluted water could be dealt with so close to resident's properties. In this case the EA must consider the implications of flooding and provide a response on mitigation measures. A drainage engineer/hydrologist should be employed by the applicant to consider the implications of flood risk to residents properties and any mitigation necessary to ensure adequate protection. Overflow and water filtration systems may have to be considered and before the water overflows into adjacent watercourses. It is important to consider an accurate level survey between adjacent properties and the application site. With ground should not accommodate heavy plant during wet weather as this will increase compaction and make the surface impermeable where rain/water run-off will be increased. A bund between the edge of the lake and the property boundaries could be built from the excavated material the excavation of the lake; top soiled and planted with native shrubs. In order to allow enough space to achieve this the lake should be positioned further away from the boundaries. Also the puddled clay bank could dry out and crack due to dry periods allow the lake the leak through its banks when levels increase. Again a drainage engineer will be able to advise. The soils bund along the public right of way is an unnatural feature in low lying land and would contribute to an oppressive experience for PRoW users. I recommend that a small amount the sub-soil and topsoil from the lake is used to create low mounding in the areas between the lake and the ownership boundary. The rest of the spoil should be taken off site to a recognised tip because if all of it is used on site the mounding will be too high and will become a harmful landscape/visual impact in this landscape.

In response to suggestion of reducing bund height to 50cm:

- 3.5 A 50 cm high bund is acceptable. As for spreading the material around the site I would ask them to strip topsoil off whilst retaining and protecting topsoil ground levels in Root Protection Areas to retained structural vegetation (scrub and trees), and separate topsoil from subsoil. Then sub soil can be laid on subsoil surface once lake is constructed, with the topsoil laid, graded, cultivated, seeded/planted on top. This is to prevent the burial/mixing of topsoil which is a valuable and diminishing resource.
- 3.6 **Conservation Officer:** no comments received at time of writing.

Oxfordshire County Council Consultees

- 3.4 **Archaeology:** no archaeological constraints to the scheme.
- 3.5 **Rights of Way:** no comments received at time of writing.
- 3.6 **Drainage:** no comments received at time of writing.
- 3.7 **Highway Authority:** no objection subject to conditions requiring the use to remain private and the access to be taken from Webbs Way only.
- 3.8 **Minerals and Waste:** Published BGS mapping shows the application site to be within an area of sand and gravel deposits within the valley of the River Cherwell, and this is confirmed by the reference in the application planning statement to gravel subsoil (paragraph 3.2.14). These sand and gravel deposits are generally thin and of poor quality and are not considered to be of potential commercial significance sufficient to justify their safeguarding from other development. The proposed development involves the extraction of sand and gravel in order to create a fishing lake, but this excavated material is to be retained on site (application planning statement, paragraph 3.2.1). Likewise, construction of the lake is proposed to be carried out using material (clay) excavated on-site (application planning statement, paragraph 3.2.1). Provided this is this case, the development does not involve either mineral working or waste disposal. To ensure this is so, in the event that permission is granted, conditions should be imposed requiring that no excavated material be removed from the site and that no material for construction of the lake be brought onto the site. Subject to these conditions, the County Council as Mineral and Waste Planning Authority has no objection to this planning application.

Other Consultees

- 3.9 **Environment Agency:** We have assessed this application as having a low environmental risk and we have no objection to the above proposal. The proposed area is not in Flood Zone 2 or 3 and so there will be no increase in flood risk arising from the development. We note that the proposals include creation of wildlife habitats and other enhancements, including ponds and scrapes across the site.
- 3.10 **Thames Water:** The application does not affect Thames Water and as such we have no comments to make.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1:

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory development plan and provides the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the development plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The Local Plan and its associated documents are available on the Council's website: www.cherwell.gov.uk

PSD 1: Presumption in favour of sustainable development
ESD 6: Sustainable flood risk management
ESD 10: Protection and enhancement of biodiversity and the natural environment
ESD 13: Local landscape protection and enhancement
ESD 14: Oxford Green Belt
ESD 15: The character of the built and historic environment
ESD 17: Green infrastructure

Cherwell Local Plan 1996

GB2: Outdoor recreation in the Green Belt
C8: Sporadic development in the open countryside
C23: Retention of features contributing to character or appearance of a Conservation Area
C28: Layout, design and external appearance of new development
C31: Compatibility of proposals in residential area
ENV1: Development likely to cause detrimental levels of pollution

4.2 **Other Material Policy and Guidance**

Planning Practice Guidance

National Planning Policy Framework

5. **Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development in the Green Belt
- Visual amenity including Conservation Area
- Highway safety
- Residential amenity
- Ecology
- Flood risk

Relevant planning history

5.2 Relevant planning history includes applications 13/00525/OUT and 15/00029/REM that gained planning permission for the erection of a dwelling adjacent to 15 Webbs

Way, Kidlington. An access to the site was approved at part of this application, to be surfaced with paving and reinforced grass.

Principle of the Development in the Green Belt

- 5.3 Government guidance within the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development; economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependant.
- 5.4 The Government attaches great importance to Green Belts, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. A Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt, exceptions to this include buildings for agricultural and forestry, provision of outdoor sport and recreation facilities, extension or alteration of a building providing it does not result in disproportionate additions, replacement of a building, limited infilling or redevelopment of previously developed sites.
- 5.5 Certain other forms of development are also not inappropriate in the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These are mineral extraction, engineering operations, local transport infrastructure demonstrating a requirement for a Green Belt location, re-use of buildings of permanent or substantial construction and development brought forward under a Community Right to Build Order.
- 5.6 Policy ESD 14 of the Cherwell Local Plan 2011 – 2031 states that development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
- 5.7 Saved Policy GB2 of the Cherwell Local Plan 1996 states that the change of use of land within the Green Belt for outdoor recreation purposes will normally be permitted provided there is no overriding agricultural objections, the visual impact on the rural landscape is not unduly harmful and there is no conflict with other Policies in the Plan. The agricultural land classification of the site is Grades 3 and 4, where 1 is excellent and 5 is poor. The development would not involve the loss of high quality agricultural land. The change of use would not prevent the remainder of the land being used for agricultural purposes, if desired. The visual impact of the development is assessed later in the report.
- 5.8 Whilst the proposed lake would be for private use, it would be for the purposes of outdoor sport and would not, therefore, represent inappropriate development in the Green Belt. The development would also constitute an engineering operation, which is also not inappropriate development in the Green Belt provided it does not conflict with the purposes of including land in the Green Belt.
- 5.9 The development would involve the creation of bund alongside the public footpath using the excavated material from the lake. The original scheme included a bund reaching a height of 1 metre, although this has now been reduced to 50cm after concerns regarding its appearance were raised with the Agent.
- 5.10 Whilst the creation of a bund is undesirable, Oxfordshire County Council Minerals and Waste have requested that the material is retained on the site. The applicant clearly desires privacy from the public footpath and, considering that a 2 metre tall wall or

close boarded fence, or dense landscaping, could be installed along the length of the boundary without the need for planning permission, on balance, a sympathetic and controlled (via condition) landscaped bund is a preferred solution.

- 5.11 The remaining material would be spread around the lake in order to create a further bund and prevent overflow when experiencing heavy rainfall. The flood risk assessment received with the application states that this will reach a height of approximately 80cm. It is considered that a bund of this height would only be acceptable if it were to appear as a natural feature. A plan of the bund is awaited and an update will be provided at the Committee Meeting.
- 5.12 Therefore, subject to the satisfactory appearance of the lake bund it is considered that the proposal represents appropriate development within the Green Belt, that will not conflict with the purpose of including land within the Green Belt, in accordance with Government guidance contained within the NPPF, saved Policy GB2 of the Cherwell Local Plan 1996 and saved Policy ESD 14 of the Cherwell Local Plan 2011-2031.

Visual Amenity including Conservation Area

- 5.12 Government guidance contained within the NPPF attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.13 Policy ESD 13 of the Cherwell Local Plan 2011-2031 requires development to respect and enhance local landscape character. Policy ESD 15 states that successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Where development is in the vicinity of any of the District's distinctive natural or historic assets, delivering high quality design that complements the asset will be essential. Policy ESD 17 seeks to maintain and enhance the District's green infrastructure network, including rights of way.
- 5.14 Saved Policy C8 of the adopted Cherwell Local Plan 1996 seeks to resist sporadic development in the open countryside. Saved Policy C23 seeks to retain features that make a positive contribution to the character and appearance of a Conservation Area. Policy C28 of the adopted Cherwell Local Plan 1996 seeks development that is sympathetic to its context.
- 5.15 Whilst the proposed lake would clearly represent an alteration to this existing agricultural land, although subject to the natural appearance of the surrounding bund, and given its irregular form, it is not considered that it would represent an overly artificial or prominent feature of the area. The development would be sympathetic to its rural context.
- 5.16 The land is included within the Kidlington Church Street Conservation Area and forms part of the Church Fields character area. It is described as a large expanse of fields used as paddocks for grazing horses, having a relationship with the open land

beyond the Conservation Area boundary.

- 5.17 It is considered that the lake itself would continue to maintain the openness of the area, and that the surrounding bund, provided that it is natural in appearance, would blend into the landscape rather than detracting from its open and rural character.
- 5.18 The bund running alongside the public footpath would be clearly visible from the public domain. A well landscaped 50cm bund alongside the footpath would, in Officer's opinion, appear as a dense hedgerow that would blend into the existing landscape. In considering that a 2 metre tall form of enclosure could be erected here without the need for planning permission, this is a more favourable solution to both the desire for privacy and the requirement to dispose of excavated material within the site.
- 5.19 Regard must also be paid to the fact that this is an agricultural parcel of land at present that could be ploughed at any point, resulting in the loss of the existing rough grassland.
- 5.20 It is considered that the development would not result in harm to the historic significance of the Conservation Area, or the visual amenities of the locality. The development is sympathetic to its rural context, and would not have a detrimental impact upon the green infrastructure network, in accordance with Government guidance contained within the NPPF and Policies ESD 13, ESD 15 and ESD 17 of the Cherwell Local Plan 2011-2031, and saved Policies GB2, C8, C23 and C28 of the Cherwell Local Plan 1996.

Highway Safety

- 5.21 Government guidance contained within the NPPF requires development to be located and designed to create safe and secure layouts that minimise conflicts between traffic and cyclists or pedestrians.
- 5.22 Oxfordshire County Council Highway Authority have assessed the proposal and do not consider that it would result in harm to highway safety provided that access is taken from Webbs Way, and that the use remains private. The applicant has confirmed that the lake will not be operated as a commercial venture and would be for private use only.
- 5.23 The application form states that there would be two part time employees and opening hours, although the Agent has clarified that this relates to the initial construction of the lake only.
- 5.24 The proposed development is considered to accord with Government guidance contained within the NPPF in terms of sustainable transport.

Residential Amenity

- 5.25 Government guidance contained within the NPPF seeks high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy C31 of the adopted Cherwell Local Plan 1996 states that in existing and proposed residential areas any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion will not normally be permitted.
- 5.26 Following initial disruption from the construction of the lake, the proposed use of the site for fishing is not considered to be incompatible with the nearby residential

dwellings. The Agent has confirmed that no machinery would be required that may result in noise and disturbance, and large numbers of visitors to the site are not anticipated.

- 5.27 The concerns regarding vermin are noted, although it is not considered that this would be over and above what may be experienced as a result of the use of the field for agricultural purposes (e.g. animal feed, ploughing land, sowing of seeds). Whilst people may decide to enter the land following construction of the lake, they can do so at present and Officers do not have reason to believe that this possibility would increase as a result of the construction of the lake.
- 5.28 The land is private and members of the public would not have the right to access the facility. However, if safety fencing is considered necessary by the owner of the lake in future, then it is likely that this would constitute permitted development, as would any fence that may be erected upon the land at present.
- 5.29 Concern has been raised with regard to the future intentions for the lake, given that a Mr and Mrs Coles run a commercial fishing lake in Kent, although the applicant has confirmed that they are not the owners of the lake in Kent, as has been suggested.
- 5.30 The proposal is considered to accord with Government guidance contained within the NPPF in terms of amenity, and saved Policy C31 of the Cherwell Local Plan 1996.

Ecology

- 5.31 Government guidance contained within the NPPF states that the planning system should contribute to, and enhance, the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. Policy ESD 10 of the Cherwell Local Plan seeks to protect and enhance biodiversity and the natural environment. In considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources.
- 5.32 The Ecology Officer has assessed the proposal and considers that there is likely to be an overall biodiversity gain on the site, provided the recommendations and enhancements set out in the ecological report accompanying the application are carried out.
- 5.33 Concern has been raised as a result of public consultation as to the impact of the development upon protected species, including badgers, although the Ecology Officer does not consider that either they, or their habitat, would be detrimentally affected by the development.
- 5.34 It is considered that the proposal accords with Government guidance contained within the NPPF and Policy ESD 10 of the Cherwell Local Plan 2011-2031 in terms of the natural environment and biodiversity protection and enhancement.

Flood Risk

- 5.35 Government guidance contained within the NPPF states that in determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Policy ESD 6 requires development to be safe and remain operational (where necessary) and proposals should demonstrate that surface water will be managed effectively on site and that the development will not increase flood risk elsewhere, including sewer flooding.

- 5.36 The site is not within Flood Zone 2 or 3 and the Environment Agency have raised no objection to the proposal. However, the area is known to experience flooding as a result of groundwater, rather than fluvial flooding.
- 5.37 A flood risk assessment accompanies the application and explains that a mound of approximately 80cm would surround the lake in order to prevent overflow and flooding elsewhere. If groundwater levels were to rise the topography of the land means that water would flow to the east, away from the development and towards the watercourse.
- 5.38 Comments from a Drainage Engineer are awaited and an update will be provided at the Committee meeting on this matter.

Engagement

- 5.39 With regard to the duty set out in paragraphs 186 and 187 of the Framework, a number of queries and issues have been raised with the Agent and amended plans and additional information has been accepted. It is considered that the duty to be positive and proactive has been discharged through discussion with the applicant on site.

Conclusion

- 5.40 Subject to the satisfactory appearance of the proposed lake bund and flood prevention measures, the proposed development is considered appropriate within the Green Belt that would not conflict with the purpose of including land within it. The development would not result in harm to the open character of the landscape and Conservation Area, the visual amenities of the locality or the amenity currently enjoyed by nearby residential dwellings. The development would result in a biodiversity gain that would not harm protected species or their habitat, and would not increase the risk of flooding elsewhere, in accordance with Government guidance contained within the NPPF, Policies PSD 1, ESD6, ESD10, ESD 13, ESD 14, ESD 15 of the Cherwell Local Plan 2011-2031, ESD 17 and saved Policies GB2, C8, C23, C28, C31 and ENV1 of the Cherwell Local Plan 1996.

6. Recommendation

Subject to the satisfactory appearance of the lake bund, **approve**, for the following reason:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Planning Statement dated 28 May 2015, Drawing No's. GPP-CC-K-15-02, W14-043-001 Rev. P1 Pond Construction, Pond Construction (Cross Sections), Pond Construction (Long Sections), GPP/CC/K/15/04 Rev. No. 1 received 02 July 2015

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the deposited material excavated to create the lake, including the bunds,

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. The development hereby approved shall be carried out strictly in accordance with the recommendations and enhancement measures set out in Section 5 of the Extended Phase 1 Habitat Survey submitted with the application, which was prepared by Lockhart Garratt dated May 2015.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD 10 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. No excavated material shall be removed from the site.

Reason – In order to reduce the amount of waste requiring disposal in accordance with Government guidance contained within the National Planning Policy For Waste.

7. Access to the site shall be taken via Webbs Way only.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

8. The fishing lake and land hereby permitted shall be used for private use only and no commercial use, including any trade, industry, business or other use whatsoever.

Reason – In the interests of highway safety, in order to maintain the character of the

area and safeguard the amenities of the occupants of the nearby dwellings in accordance with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as discussions have been undertaken to secure amendments to ensure that an appropriate form of development has been arrived at.

CONTACT OFFICER: Gemma Magnuson TELEPHONE NO: 01295 221827