

Planning and Development



David Peckford, Assistant Director – Planning and Development



Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA

www.cherwell.gov.uk

Please ask for: **Sean Tilbury**

Direct Dial: **01295 221503**

Email: **sean.tilbury@cherwell-dc.gov.uk**

Our Ref: **20/00169/ENF**

19th June 2020



Planning Enforcement

Contravention No.: 20/00169/ENF

Reported Breach of Planning Control: Various breaches of condition - 19/02796/F and 18/00220/F

Location: Land North of Milton Road, Adderbury, Oxfordshire

I have been asked to respond to you by Sarah Stevens regarding the breaches of planning control that have allegedly taken place at the above site location. The email dated 8 June raised a number of new issues which have now been investigated thoroughly, including seeking specialist advice in respect of some matters and discussion with senior officers. As part of our investigation Officers from the Planning Enforcement and Monitoring Team conducted site visits on 6 May and 11 June and other Officers from other services have also inspected the site.

This response also states the Council's position on the previously raised breaches dating back to 4 May in order to provide a comprehensive response to all issues raised to date.

Implementation of 19/02796/F

It has been alleged that several planning conditions of 19/02796/F relating to drainage, site levels, and a Construction Environmental Management Plan have been breached by the works undertaken to date. The Council does not consider this to be the case as the works undergone are lawful under the previous consent ref. 18/00200/F which permits the change of use of the land, in addition to the provision of a car park, access, landscaping and general layout of the site. Whilst there is a degree of overlap between the two planning consents, the applicant may lawfully implement 18/00220/F without also implementing 19/02786/F. No works have been undertaken that are exclusively permitted by 19/02786/F, for example the laying out of the pavilion or the Multi-Use Games Area.

Both pre-commencement planning conditions, conditions 3 and 4 of 18/00220/F, have been discharged and the commencement of the development is therefore lawful. The Council will expect the remaining conditions to be discharged prior to their respective deadlines and will have been in contact with the Parish

Council to advise them and that we will monitor the implementation of the permissions. The siting and design of the pitch drainage system has been approved and can be implemented lawfully prior to the remaining conditions being discharged.

Site levels

Condition 8 of 18/00220/F requires site levels to be approved prior to any works to change the site levels. An Officer has visited the site and concluded some site levelling has occurred, with up to 200mm of surface soil being removed and redistributed elsewhere on the site raising levels by up to 100mm. There was no evidence that soil has been imported or exported from the site. Detailed plans have been provided on the Council's request which show the exact extent of this redistribution. The redistribution amounts to a technical breach of condition 8, however the Council considers the overall changes to be non-substantial and given the limited extent of the changes does not consider it expedient to take enforcement action. Officers will continue to monitor the groundworks and Condition 8 will need to be discharged prior to any significant changes in site levels.

Compliance with the approved drainage scheme and perceived flood risk

The surface water drainage scheme for the sports pitches was approved by application reference 19/00004/DISC. This scheme stipulates that the sports pitches drain towards a grassed infiltration basin located in the North East of the site. As of the time of the site visit no drainage work had commenced, only preparatory clearance work. A Drainage Engineer visited the site on 11 June and confirmed that there was no greater risk of flooding beyond the former state of the land.

Condition 3 requires the approved drainage scheme to be implemented prior to the completion of the development. There is no planning requirement relating to the order in which this system is constructed. Until the development reaches substantial completion without the approved drainage system being in place, or until an unauthorised drainage system is installed, then there is no breach of this planning condition. The Council will work with the applicant to ensure that the approved drainage scheme is understood and is constructed as approved.

The landowner has responsibilities outside of the planning process to ensure that their land does not drain in an uncontrolled manner onto neighbouring land. The Council has recommended that the infiltration basin is established prior to the pitch drainage system to ensure that run-off is managed and not concentrated towards a single location, however this recommendation is made outside of the planning enforcement process.

Ecology

Vegetation clearance has been undertaken in breach of condition 18 of 18/00220/F and the Council must consider the harm caused and merits of taking formal enforcement action. The Council is in receipt of an Ecology Report which states that the proposed development footprint is not suitable for nesting birds. It is thought that the former use of the land for dog walking led to the grassland area being an unsuitable habitat and when an Officer visited the site on 6 May 2020 there was no evidence of ground nesting birds or their nests.

In consultation with the Council's Ecology Officer, the Planning Enforcement Team has concluded that the potential harm of these works does not warrant formal enforcement action, however the owners have been warned against breaching this condition again and to seek the Council's advice before further vegetation removal.

Conclusion

The Council has assessed all allegations to date and has found breaches of condition 8 for altering site levels and condition 18 for vegetation removal during bird nesting season. The Council considers both breaches to be minor in harm and has decided that it would not be proportionate to take further action. The enforcement case ref. 20/00169/ENF has therefore been closed. The Council will continue to monitor the development and will make clear its expectations for the remaining conditions to be discharged prior to their respective timescales. Should any new breaches of planning controls become evident they can be

reported in the usual manner on the Council's website for investigation and if you have any queries regarding the result of this investigation please contact me using my details above.

Yours Sincerely

Sean Tilbury
Development Monitoring Officer