

Oxford Flood Alliance
26 South Street
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28 November 2016

Dear Mr Murdoch

Re. Planning Application 16/02745/CT3 extension to Seacourt P&R

The Oxford Flood Alliance is objecting to this planning application on the grounds that it breaches planning policy, and is incompatible with the OCC Core Strategy. We also make a series of observations about the inadequacies of the Flood Risk Assessment. We believe other, more appropriate options should be pursued.

Planning Policy

The National Planning Policy Framework makes it very clear that planners should steer towards development in Flood Zone 1, or if that is not possible Flood Zone 2. Only in exceptional cases should development in Flood Zone 3 be considered, and in particular in Zone 3(b), the functional floodplain. The national policy requires that local authorities take a strategic approach to these issues with the development of Strategic Flood Risk Assessments and the preparation of Local Planning Documents informed by flood risk analysis providing the framework for planning decisions.

Following the 2007 floods the government set up an enquiry led by Sir Michael Pitt. All of the recommendations in his report, published in 2008, were accepted by government. The guidance document which accompanies PPS25, which covers flood risk and planning, says:

Sir Michael Pitt's review of the summer 2007 floods (Cabinet Office 2008) supported PPS25 planning policy and urged that it should be *rigorously* applied by local planning authorities. His final report recommended that the operation and effectiveness of PPS25 should be kept under review and strengthened if and when necessary. (Emphasis added.)

The stress in national policy is clearly that development in Flood Zone 3(b) should be avoided unless absolutely essential, and that strategic planning is an vital component of this.

The City Council's Core Strategy was prepared in accordance with these national policies, and was subject at the time to considerable public consultation. Core Strategy 2 states:

Development will be focused on previously developed land.

Development will only be permitted on greenfield land if:

- *it is specifically allocated for that use in the Local Development Framework, or*

- *for residential development, it is required to maintain a five-year rolling housing-land supply, the approach for which is set out in Policy CS22.*

Greenfield land will not be allocated for development if any part of the development would be on Flood Zone 3b, or if it would cause harm to a site designated for its ecological value.

Core Strategy 11 (which relates to flooding) says:

Planning permission will not be granted for any development in the functional flood plain (Flood Zone 3b) except water-compatible uses and essential infrastructure.

The Planning Statement for this application makes passing references to NPPF policy on flooding but wholly fails to reflect the seriousness with which these policies should be being applied. There is an extensive discussion of Green Belt issues but scarcely any consideration of the NPPF guidance on planning for flood risk.

The proposed extension of Seacourt Park & Ride by the City Council is not a development explicitly envisaged in the local plan - though the 2008 transport plan does say that "In the longer term, the City Council may, in conjunction with the County Council, may investigate additional sites and the expansion of existing sites including the potential for decking." The need at Seacourt is identified in the planning application as 'short-term' and is occasioned by the Westend development and concerns about increased traffic entering the city when this is completed. The Westend is a part of the Core Strategy and provision of adequate transport infrastructure to support its development should have been part of the overall plan and should have been provided for in a manner consistent with NPPF guidance on flood risk. The fact that the OCC appears to need an urgent solution to parking which has to be delivered by 2017 appears to reveal a major failure in planning. This is no reason for now seeking to breach flood risk planning policy.

The proposal involves development of a greenfield site in Flood Zone 3(b). This is clearly in contravention of Core Strategy 2, and contrary to the NPPF advice on avoiding further development in 3(b), the functional floodplain. The Planning Statement for some unaccountable reason fails to mention CS2 in its review of the planning context. The application should be rejected on these grounds alone. In bringing this proposal forward the City Council is failing in its responsibility to direct development away from the floodplain, and breaching its own strategy.

The applicants try to suggest that the NPPF is silent on the specific issue of Park & Ride and that there is therefore leeway to consider this development acceptable provided any resulting flood risk can be mitigated. This argument is most clearly set out in the Flood Risk Assessment carried out by WYG. This argument in our view is spurious. The only permitted development in Flood Zone 3(b) is essential infrastructure or 'water compatible development'. A P&R is not essential infrastructure in NPPF terms, nor do the applicants claim it is. In the government's guidance on flood risk and planning, [Table 3: Flood risk vulnerability and flood zone 'compatibility'](#) the footnotes include the statement: 'water-compatible uses, should be designed and constructed to... remain operational and safe for users in times of flood.' As the proposed carpark extension will flood it clearly does not comply with this requirement. The applicants state, based on discussion with the Environment Agency (EA), that the development is considered to have 'low risk vulnerability', but Table 3 says that such developments are incompatible with Flood Zone

3(b) and should not be permitted. This view was clearly conveyed to the applicant by the Environment Agency who are quoted in the Flood Risk Assessment (para 3.2.4) as advising: 'It is noted by all parties that the site is located within the Functional Floodplain (Flood Zone 3b) and as such Less Vulnerable development is not compatible with the Flood Zone and is therefore at variance with the NPPF.' As the EA point out, these are issues for the planning authority to determine. None of these issues are properly addressed by the applicant.

Having decided, for reasons which are not explained, that this proposal is somehow compatible with the NPPF framework the applicant attempts to apply an assessment 'akin to the Sequential and Exception tests' required for justifying development of essential infrastructure in Zone 3(b). The use of 'akin to' is interesting terminology - the consultants are essentially saying they are working outside the NPPF which they consider is not clear. The procedure as defined by NPPF involves satisfying the Local Planning Authority that no suitable alternative site exists, and detailed guidance is provided. The problem with the applicants approach is that the development is required in a hurry, so only sites already in the ownership of OCC, and therefore capable of being rapidly developed, are considered viable. The Sequential Test is supposed to be a tool for making strategic assessments of where best to locate development, it is not a tool for justifying the kind of short term, quick-fix process being proposed here. The way the Sequential Test has been applied here is wholly inconsistent with NPPF guidance and example case studies. A process 'akin' to the sequential approach should not be accepted by the planning authority as consistent with NPPF requirements. This is not a appropriate development and attempts to justify it on the basis of a supposed loophole in the NPPF should be rejected.

In circumstances where a Sequential Test does apply, planning applications also have to pass an Exception Test. This is noted in passing by the applicant in para 6.190 of the Statement, though no further reference to this is made in the rest of the document. No explicit attempt is made to explain how this development meets the Exception Test which essentially requires (a) that sustainability benefits outweigh flood risk and (b) that the development will 'be safe for its lifetime.' The Conclusion of the Planning Statement in fact fails to mention flooding at all. Even if this were permissible development, therefore, the applicant has failed to comply with NPPF requirements. This is consistent with the impression created throughout, that broader flooding issues are not being taken seriously.

The Flood Risk Assessment

The FRA is a curious document. In places it states that various measures, such as an emergency evacuation plan, 'will be put in place' (4.4.6.) How do the consultants know this? Surely this is something they should be recommending happens. The planning application in fact appears not to include any emergency management plan, surely an essential component required to meet the Exception Test which the applicant claims applies. The EA in its advice stressed the need for a 'robust emergency management plan'.

More concerning is the failure to provide proper data on how frequently this site actually floods. The table on page 14 lists 'historic flood events recorded within the site since 1947.' But this list only goes up to 2008. Oxford experienced major flooding between Nov 2012 and Feb 2013, with Botley Rd closed for significant periods, very serious flooding was also experienced in Jan and Feb 2015. The proposed site for the carpark extension would have been under water for months during both of these events. Why has this critical data

been omitted from the report? But these are just the major floods. We suspect that this site, being low lying and in the flood plain actually floods more frequently than this. We know, for example, that the site was flooded for at least several weeks in early 2016. Even when the city is not threatened by flooding water builds up at various points in the floodplain after a sustained period of rainfall. WYG seems to have made no attempt to actually understand how frequently the site floods. On average this will be at least once a year in our view, with frequency of flooding currently increasing.

Equally, the FRA fails to adequately address the implications of the Oxford Flood Alleviation Scheme. WYG refer to the scheme, but appear not to be aware of current status or the latest plans. Section 4.4.11 notes that implementation of OFAS 'is likely' to affect the P&R extension. They go on to say 'It is unknown at this stage what effect this will have on flood levels within the site', but then assert that water levels are likely to remain the same based on an assumption that OFAS will happen. What is the basis for this assumption? OFAS has not been built yet, and this application should be assessed on the basis of the existing flood environment. If OFAS is not built flooding of this site, with climate change, will almost certainly increase. If OFAS does go ahead the northern section of the scheme will be designed to pull water above Botley Rd across to the west so that it flows into the Seacourt stream, which will be widened at this point. Not only flood depths are important but the strength of flow. No attempt appears to have been made to understand the actual implications of OFAS and to model potential flood depths and flows using the OFAS model. We would also point out that the OFAS scheme aims to enhance biodiversity in the floodplain. This is part of the business case for the project and directly linked with the innovative approaches to scheme maintenance being explored by the project.

Figures provided within the document appear to be inconsistent. For example it is stated that in a 1:100 flood with climate change flooding on the development will be up to 2.25m (para 4.3.2). But in Appendix L the maximum flood depths shown in the compensation maps are 1.81/1.82m. A 2.25m flood depth seems surprisingly high to us and if true suggests this ground is very low lying. The depth of flooding in the waiting area is said to be 0.5m in a similar level event, and again this seems high. Unfortunately insufficient data is provided within the report to enable a reader to satisfy themselves that the assessments have been undertaken correctly. Whatever the correct levels are it is clear the waiting area will flood. The EA in its advice said that allowing buildings on the development to flood would 'not be an acceptable part of any scheme.'

The FRA proposes to mitigate increased flood risk created by the development through the creation of compensating storage to the north of the site. But no proper survey of ground water levels is provided, and no assessment appears to have been made as to whether land at this level can be excavated to as much as 0.6m (see maps in Appendix L) without it filling with ground water. The Ground Survey report comments that soakage may be affected by high ground water levels but is unable to provide an assessment of the potential effect because the study was carried out 'after a number of days of dry weather'. It recommends confirming ground water levels 'at a wetter time of year.' We cannot find any evidence this has been done. (We also note that the Ground Survey concluded that the clay deposits which cover the site would be a very difficult surface to lay a pavement on, as expansion and contraction of the clay, unless it can be suitably treated, will lead to buckling of the pavement.)

Apart for the compensation issue, in our view the kind of drainage system being proposed would only work if the site were not in the floodplain. This kind of drainage system is normally used to prevent flash flooding and the erosion of water courses which result from rapid discharge of water. These systems are not designed for use in a floodplain. As soon as the site is flooded it is no longer able to discharge into the floodplain because it is floodplain.

There is no discussion of the maintenance of the site beyond indicating that this will be the responsibility of OCC. The P&R extension will flood frequently. Floods deposit silt and rotting vegetation, including tree branches, as well as other debris. What impact this would have on the carpark surface, and what the cost of clean-up would be is not evaluated. Our view is that the permeable surface would rapidly degrade as a result of flooding and it would be impossible to return it to the 'as built' standard assumed in the modelling used in this proposal. The compensation modeling is therefore an irrelevance as the carpark will after a few year have become a large impermeable surface. The FRA simply fails to take account of the fact that this site floods frequently.

On the safety issue no explanation is provided as to how OCC can guarantee that site furniture and even stranded cars will not be swept into the nearby flood channel causing obstructions in major floods. Because of the ground conditions the waiting area has to be a light structure with minimum foundations. How will this stand up to a major flood? How will fencing around the site stand up to flood depths of several meters? The application is complacent about these issues, relying wholly on past experience at the existing P&R which is on higher ground and floods less frequently and to a much lesser depth than will be the case with the proposed extension.

Alternatives

The wider transport policy context is defined by the County Council transport strategy (see in particular the P&R strategy document of May 2016) which envisages the creation of a ring of P&Rs in locations outside the present Oxford ring road. Eynsham, with an intended capacity of 1000 spaces, is one of two sites intended to relieve Seacourt P&R. Consultation on development of this site has started. A P&R scheduled for development at Cumnor is intended to provide further relief, and the County Council envisages probably closing the Seacourt site within the next 15 years. OCC and the County have different opinions about future need at Seacourt but it is clear that the perceived problem this proposal seeks to fix is a short term one.

Among the alternatives supposedly investigated in the 'Sequential Test' was the placing of decking on the existing P&R site. But this is ruled out by the applicant on four grounds.

- a) The OCC doesn't own the freehold - this looks like being the actual reason this option is discounted
- b) The existence of a covenant preventing the erection of structures on the site. A copy of this covenant is not provided with the planning application. A search of Land Registry records by local resident Liz Sawyer revealed only one covenant document dating from 1929 and this does not impose the restrictions claimed by the applicant. The only restriction is that homes of a value of less than £400 cannot be built on the land, and business may not be conducted from any house which is built.

- c) It would be visually intrusive and therefore unacceptable to local residents. This hasn't been adequately tested with local residents.
- d) It would increase flood risk which would have to be compensated for. This is a very curious argument given that the alternative solution proposed causes a potentially far greater flood risk which has to be compensated for.

Even if we accept that a Sequential Test is applicable in this case (which we dispute) these are flimsy and unsubstantiated arguments for rejecting what would seem a far more appropriate approach to a temporary problem. The alternative of course is just to live with the 'problem' (which may in the event prove less of an issue than imagined) for the few years that it takes to bring the new P&Rs proposed in the County Strategy on stream.

Conclusion

This proposed development is incompatible with the NPPF and breaches the OCC's own Core Strategy. The applicant has sought to construct a process outside the NPPF, which is described as 'akin' to the Sequential Test and Exception Tests used under NPPF. This is not a legitimate process and is inconsistent with the spirit and letter of planning where flood risk is involved. To allow this application would set a very bad precedent for the future. Once a carpark is constructed the site becomes brownfield. In a few years' time, when it's not needed as a carpark anymore, no doubt we'll see a proposal coming forward to put a warehouse on it. And so another bit of flood plain gets nibbled away.

The FRA fails to assess the actual frequency of flooding at the site, and certainly understates this to a considerable degree. It fails to take account of the effect frequent flooding will have on the porous pavement proposed for the site which renders the modelling of run off rates redundant. No proper consideration has been given to the compatibility with the Oxford Flood Alleviation Scheme and the potential for the site to increase hazard during a major flood has not been adequately addressed.

On grounds both of principle and practicality this proposed scheme should not be allowed to proceed.

Yours sincerely

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