

FAO David Ditchett

West Oxfordshire District Council

By email only

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8th June 2023

Dear David

Application reference: 22/03240/OUT

Location: Land South Of Burford Road Minster Lovell Oxfordshire

Proposal: Outline planning permission for the development of up to 134 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated highway works, with all other matters (relating to appearance, landscaping, scale and layout) reserved (amended description) (amended plans)

Objection, in relation to the following issues:

- 1. Impact on Pumping Station Meadow Local Wildlife Site**
- 2. The importance of avoiding impact on UK priority species including dormouse and breeding birds**
- 3. The management of hedgerows in order to achieve biodiversity net gain**
- 4. The importance of a net gain in biodiversity being in perpetuity**

Thank you for consulting us on the above application. As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology on and around the application site.

1. Potential impact on Pumping Station Meadow Local Wildlife Site

Pumping station meadow Local Wildlife Site (LWS) is located 0.4 km to the north of the site. This LWS is designated for its limestone grassland and previously noted as having the largest population of green-winged orchids in Oxfordshire. The grassland on the slope is species rich with abundant dwarf thistle, lady's bedstraw, common restharrow, rough hawkbit, salad burnet, hairy violet, cowslip and



wild thyme. The proposed development will result in a net increase of up to 134 dwellings which will inevitably result in additional recreational impacts to the designated features of the LWS. We are very concerned that the damage caused by increased numbers of people and dog, and potentially dogs off leads, litter, portable barbeques and dog waste will lead to a decline in the biodiversity of this LWS.

POLICY EH3: Biodiversity and geodiversity of the West Oxfordshire Local plan states:

"The biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity and minimise impacts on geodiversity, including by:....

....avoiding loss, deterioration or harm to locally important wildlife and geological sites and sites supporting irreplaceable habitats (including ancient woodland, Plantations on Ancient Woodland Sites and aged or veteran trees), UK priority habitats and priority species, except in exceptional circumstances where the importance of the development significantly and demonstrably outweighs the harm and the harm can be mitigated through appropriate measures and a net gain in biodiversity is secured;"

We note that the applicants Ecological Impact Assessment recommends at paragraph 1.1.2 iii

"...that any public footpaths that lead from the development site towards the LWS should be signposted detailing important information pertaining to the LWS to try and reduce trampling pressures and sufficient Public Open Space should be provided within the residential scheme to limit offsite recreational pressures, as is planned."

We are concerned that the proposed signposting and provision of public open space will be insufficient to prevent damage to the designated features of the LWS that the application is therefore contrary to Policy EH3 of the local plan quoted above.

2. The importance of avoiding impact on UK priority species including dormouse and breeding birds

We note that the applicant's EIA states at paragraph 1.1.6 iii:

"Hedgerow habitats provide suitable habitats for dormice, and connectivity to the wider landscape. No local records were identified within the desk study; however, the Site is within their population range."

We therefore consider it important that surveys are undertaken to confirm the presence or absence of dormice especially as there is to be a negative impact on the existing hedgerow H3 which will be partially destroyed by a road and path (see paragraph 4 below).

We note that the applicant has not considered it necessary to undertake surveys for breeding or wintering birds. However, table 1.1 lists records of a number of priority species birds very close to the site and the applicant has noted at paragraph 1.1.11 iii

“The hedgerows and trees on site are suitable habitat for bird nesting sites and local records of Birds of Conservation Concern (BoCC) and Wildlife and Countryside Act Schedule 1 (WCA1) were returned from the data search.... The arable land also provides some, albeit limited value to foraging birds. Additionally, Skylarks were recorded during the survey.”

The importance of avoiding impact on the UK priority species is backed up by planning policy e.g. the NPPF states:

“179. To protect and enhance biodiversity and geodiversity, plans should: b) promote..... the protection and recovery of priority species;”

POLICY EH3: Biodiversity and geodiversity of the West Oxfordshire Local plan quoted above also requires that impact on UK priority species should be avoided.

We therefore consider it important that appropriate bird surveys are undertaken especially in relation to skylark. The results of surveys should be made available for analysis and comment prior to the application being determined and if necessary the applicant will need to demonstrate that the potential impact on priority species is outweighed by the importance of the development and that the harm can be mitigated through appropriate measures and that a net gain in biodiversity will be secured in accordance with Policy EDH3 of the local plan quoted above.

DEFRA have provided guidance to competent authorities (including local authorities) on how to comply with the legal requirements of the [Conservation of Habitats and Species Regulations 2010](#) as amended in paragraph 9a of the [Conservation of Habitats and Species \(Amendment\) 2012 Regulations](#)). The guidance is available at: <https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>

The guidance states that:

“You must, as part of your existing duties as a competent authority, take the steps you consider appropriate to preserve, maintain and re-establish habitat that is large and varied enough for wild birds to support their population in the long term....

You must use your powers so that any pollution or deterioration of wild bird habitat is avoided as far as possible.....

There are no national population targets for wild birds. However, you must aim to provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live.

You should focus on habitats for wild birds in decline but also maintain habitats supporting wild birds with healthier populations.”

consider bird populations when consulting on or granting consents, such as planning permissions, environmental permits, development or environmental consents, and other consents.”

Depending on the outcome of appropriate surveys the applicant will also need to provide sufficient evidence that it will “*provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live*” in relation both to “*wild birds in decline*” and to “*wild birds with healthier populations*”

3. The importance of a net gain in biodiversity being in perpetuity

Once built, if approved, the development can be reasonably assumed to be there forever, since even when the buildings are replaced it would be likely to be replaced by other forms of development. Therefore, the wildlife habitat will be lost forever and any compensation must be provided for ever. Otherwise the result is to simply defer a significant loss of biodiversity that should not be occurring either now or in 25 years' time.

The most effective method to ensure that any compensation is provided for ever would be for the land identified for habitat creation and enhancement to be managed for wildlife in perpetuity with money provided by an endowment fund.

In perpetuity is considered to be at least 125 years in accordance with legislation which defines the ‘in perpetuity’ period (Perpetuities and Accumulations Act 2009). There is a precedent for this approach in relation to the Thames Basin Heaths SPA. Para 3.1.5 Thames Basin Heaths Special Protection Area Supplementary Planning Document states:

“The avoidance and mitigation measures should be provided in order that they can function in perpetuity which is considered to be at least 125 years. An ‘in perpetuity’ period of 125 years has been applied in this SPD in accordance with the legislation which defines the ‘in perpetuity’ period (Perpetuities and Accumulations Act 2009).

Compensation that involves only a 25- or 30-year agreement on private land with no guarantee of the long-term security in perpetuity of the wildlife habitat created would not be appropriate. The loss of wildlife habitat on the site will be permanent so the compensation must be permanent. Any offsite compensation must be agreed through a S106 agreement.

It is also important that the land should be managed by a reputable conservation organisation with considerable expertise in the management of habitat for wildlife.

4. The management of hedgerows in order to achieve biodiversity net gain

We note that the majority of the existing hedgerows are to be retained although the hedgerow which runs north to south down the centre of the site (H3 – an intact species rich hedgerow noted at 16.1.3 of the applicants EIA) will be broken by a road and a path making it less effective as a linear habitat e.g. for dormouse and for foraging bats.

If the presence of dormouse is confirmed by survey (see paragraph 2 above) then the hedgerow H3 should be preserved intact in order to avoid a negative impact on this priority species. Where hedgerows are broken to allow for a road, these should include diverting plants which encourage bats to fly higher the road instead of straight across in order to reduce the likelihood of being hit by cars when foraging and commuting. [Install hop-overs as road/railway crossing structures for bats - Conservation Evidence](#)

It is important that retained or newly created hedgerows are carefully managed in order to achieve the necessary biodiversity net gain. In general, a rotational cutting regime on a three-year cycle wherever possible (or a two-year cycle where particular reasons justify it) will be of most value to biodiversity. This is for many reasons including allowing the formation of fruit which is a vital winter food source for birds, and allowing butterfly and other invertebrate eggs laid on branches to overwinter. This is an important issue as annual cutting would have a severely detrimental impact on the biodiversity value of the hedgerows.

Retained hedgerows should be protected by a buffer zone of minimum 10m either side of the hedgerow. Buffers should be primarily diverse grassland areas alongside the hedgerows so that they are suitable for invertebrates. There should be no built environment and minimal lighting within the buffer zone.

Green roofs

In order to increase the potential net gain in biodiversity resulting from the development, the applicant should be required to maximise the provision of green roofs, and install solar panels on roofs which are not green roofs. The extent of biodiversity will depend on the type of green roof installed. Sedum roofs benefit a limited range of invertebrates and provide foraging for pollinators when in flower. Ecologically designed extensive green roofs can provide good habitat for wildlife, but there are limitations in terms of replicating habitat at ground level due to shallow depth of soils and the drying effect of wind and sun. Research shows that green roofs can provide valuable habitats for wildlife (<https://livingroofs.org/biodiversity-and-wildlife/>). According to www.livingroofs.org, a good green roof designed for biodiversity should include a varied substrate depth planted with a wide range of wildflowers suitable for dry meadows. The inclusion of buildings with green roofs would be another means of increasing biodiversity within the proposed development.

Lighting

We note that the applicant's Lighting Impact Assessment concludes that *"the proposed development will have a negligible impact on the area surrounding the site"* (p12). However, it is our view that the introduction of lighting into this rural-edge area could potentially impact upon a wide range of species, in particular on bats and birds.

We consider it is essential that a detailed lighting strategy is submitted setting out how the impact of light spill will be minimised in a form that can be conditioned.

We hope that these comments are useful. Please do not hesitate to get in touch should you wish to discuss any of the matters raised.

Yours sincerely

Nicky Warden

Public Affairs and Planning Officer

Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust