

Cherwell District Council

**By email only**

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18<sup>th</sup> November 2022

Dear Sir/Madam



**Application number: 22/03064/OUT**

**Location: Land Opposite Hanwell Fields Recreation Adj To Dukes Meadow Drive Banbury**

**Proposal: Outline planning application for up to 176 dwellings and associated open space with all matters reserved other than access**

**Objection:**

- 1. Potential impact on Hanwell Brook Wetland including hydrological impact, and recreational impact**
- 2. Potential impact on existing grassland with adder's tongue fern**
- 3. Application does not provide adequate evidence of a net gain in biodiversity**
- 4. The importance of a net gain in biodiversity being in perpetuity**
- 5. Buffer zones and management of hedgerows in order to achieve biodiversity net gain**
- 6. Application does not provide evidence that it will help to achieve the aims of the Conservation Target Area**

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 Hanwell Brook Wetland including hydrological impact, and recreational impact**

Just to the east of the development site lies an area known as the Hanwell Brook Wetland. This site supports a range of wildflowers such as bugle, meadowsweet and greater bird's-foot trefoil and a range of birds, dragonflies, damselflies, frogs and toads. It is one of the areas which has been improved for wildlife and people as part of the Wild Banbury Project which is a partnership between BBOWT, Cherwell District Council and Banbury Town Council, funded by Cherwell District Council.

The proximity of the proposed development site to the wetland combined with the topography of the site which slopes steeply to the east (toward the wetland) means there is potential for a negative



hydrological impact on the wetland and the applicant should provide information to illustrate how this impact will be avoided.

The proximity of an additional 176 new homes to the Hanwell Brook Wetland will almost certainly mean an increase in walkers and associated dogs visiting the wetland and we are concerned that this increased recreational pressure will have a negative impact on the site. The applicant should provide information to illustrate how this impact will be avoided or if that is not possible mitigated.

## **2. Potential impact on existing grassland with adder's tongue fern**

Adder's-tongue fern is an unusual fern that grows in grasslands and meadows, on hillsides, along woodland rides and on sand dunes. It is considered a good indicator species of ancient meadows. Although the adder's tongue fern is locally abundant this is because there is a high concentration of important meadows in Oxfordshire; nationally it is much less common.

We note that paragraph 6.1.3 of the applicant's Ecological Appraisal states in relation to the adder's tongue fern:

*"...a comprehensive mitigation strategy [will] be drawn up at the detailed design stage (which could be suitably secured by way of appropriately worded planning condition at the outline stage), including consideration of translocation of grassland turfs containing concentrations of this species.*

*6.1.4 A detailed translocation method statement would be prepared following updated botanical survey work to confirm the up to date distribution of Adder's Tongue Fern at that time, along with potential soil assessment to determine suitability of proposed receptor areas within the wider open space, if required."*

We are nevertheless very concerned about the potential loss of grassland with adder's tongue fern and are unsure about how successful the proposed translocation of the fern is likely to be. The success of any translocation is dependent on many different factors such management of the new site, hydrology and fungal associations.

We would therefore request that if the application is approved, the site should be redesigned in order to avoid development on areas of grassland with adder's tongue fern which should remain in situ with a buffer zone put in place to protect it. The grassland areas with adder's tongue fern should then be carefully managed as Other Neutral Grassland in order to protect it into the future.

## **3. Application does not provide adequate evidence of a net gain in biodiversity**

Our response below draws on the following planning policy and we have underlined the aspects most relevant to our response.

National Planning Policy Framework (NPPF) Paragraph 174. states:

*"Planning policies and decisions should contribute to and enhance the natural and local environment by: ...*

*d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;"*

The Environment Act 2021 will make a 10% net gain in biodiversity mandatory in 2023, however local planning policy already requires a 10% net gain in biodiversity as illustrated below:

The Cherwell Local Plan, Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment state:

*... “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” ...*

And in addition, p15 of Cherwell District Council’s Community Nature Plan 2020–2022 A natural environment for people and wildlife refers to a target to:

*“Seek a minimum of 10% net gain in biodiversity when considering proposals for development.”*

A Biodiversity Net Gain metric spreadsheet has been provided at Appendix 6007-01/5 of the applicant’s Ecological Assessment (EA) to illustrate the potential net gain resulting from this application.

We welcome the submission of the metric spreadsheets to allow consultees to assess the scoring in detail. However, we consider more information is required in relation to the scoring for the Offsite habitat enhancement of Other Neutral Grassland from poor to good which makes up a large proportion of the increase in habitat units.

We would welcome more information to justify the baseline condition score of “poor” for Other Neutral Grassland (both on and off site) especially given the presence of adder’s tongue fern which is considered a good indicator species of ancient meadows (see above).

Whilst we welcome the aspiration to enhance 2.1 hectares of Other Neutral Grassland to good condition, we consider much more detail is needed on how the habitat will be both enhanced and managed so that the local authority, and ourselves, can be sure that it is achievable in the timescale indicated (15 years) and can be maintained thereafter. This detail should include the submission of a Habitat Creation and Management Plan for all the main wildlife habitats and SuDS features and for that, and any other detail, to be consulted on.

We consider that the newly enhanced Other Neutral Grassland will need to be carefully managed as if it was a nature reserve for wildlife in order to achieve the necessary biodiversity net gain and that factors such as invasive species, recreational impact and nutrient input could all be relevant and would need to be considered. For this reason, we consider that a great deal more information in relation to habitat management is needed.

We consider that the applicant should produce a detailed Habitat Creation and Management Plan at this stage of the planning process (rather than conditioned and produced at a later stage), so that it can be analysed and commented on.

#### **4. The importance of a net gain in biodiversity being in perpetuity**

Once built, if approved, the development can be reasonably assumed to be there for ever, 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 for ever 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 30 years' time.

The most effective method to ensure that any compensation is provided for ever would be for the land identified for on site or off-site habitat creation and enhancement to be managed for wildlife in perpetuity with money provided by an endowment fund. Such an endowment fund is already commonly used within the Milton Keynes area when agreements are made involving the Parks Trust taking on land.

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). This legislation was used to define in perpetuity in this extract from the Thames Basin Heaths SPA. Para 3.1.5 Thames Basin Heaths Special Protection Area Supplementary Planning Document which 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).*

On-site or off-site compensation that involves only a 30-year agreement 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.

TOE <https://www.trustforoxfordshire.org.uk> is an independent charity with strong relationships with local planning authorities, developers and landowners across the county which may be able to assist the applicant in meeting its net gain obligations.

#### **5. Buffer zones and management of hedgerows in order to achieve biodiversity net gain**

If the application is approved then retained hedgerows should be protected and enriched by creating buffer zones or buffers of semi natural vegetation. Buffers zones should feature:

- Minimum 10 m wide buffer zone each side of the hedgerow
- Dark corridors along the hedgerows so that both the hedgerow and the 10m buffer is protected from light
- Buffer zones should be primarily diverse grassland area alongside hedgerows so that they are suitable for invertebrates
- No built development within the buffer zone
- Positive ecological and landscape management techniques to ensure value to key species
- SuDS features such as swales and attenuation ponds
- Nesting and foraging opportunities for birds
- Provision for continued habitat and wildlife corridors for species such as invertebrates, reptiles, hedgehogs and bats
- Protection of wildlife from increased human presence, site traffic, noise and lighting during construction and operation phases
- New planting of similar species and or translocations to create new links between hedgerows and to fill gaps in the existing hedgerows

In addition, if the application is approved, then new and retained hedgerows will need to be carefully managed in order to achieve the necessary biodiversity net gain. We consider that a great deal more information in relation to the management of hedgerows is needed. In general, a rotational cutting regime on a three-year cycle 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.

Newly planted hedgerows should include a significant component of blackthorn, the primary larval food plant of brown hairstreak butterfly as this area is an important stronghold for this increasingly rare species.

#### **6. Application does not provide evidence that it will help to achieve the aims of the Conservation Target Area**

Policy ESD 11 of the Cherwell Local Plan 2011 – 2031 states

*“Where development is proposed within or adjacent to a Conservation Target Area biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancement. Development which would prevent the aims of a Conservation Target Area being achieved will not be permitted. Where there is potential for development, the design and layout of the development, planning conditions or obligations will be used to secure biodiversity enhancement to help achieve the aims of the Conservation Target Area.”*

The site is located very close to the North Cherwell Conservation Target Area. For more information about this CTA please see <https://www.wildoxfordshire.org.uk/wp-content/uploads/2020/07/North-Cherwell-1.pdf>

The Oxfordshire Biodiversity Action Plan Targets associated with the CTA are as follows:

1. Floodplain grazing marsh – restoration and management for breeding waders and wintering wildfowl.
2. Lowland meadow – management, restoration and creation for botanical value and breeding Curlew.
3. River – management and restoration
4. Reedbed - management and creation
5. Pond – creation and management

Given the proximity of the site to the CTA, we consider that information should be provided to illustrate how the development will “*secure biodiversity enhancement to help achieve the aims of the Conservation Target Area*” in line with Policy ESD 11.

#### **Solar Panels and green rooves**

In the event that this application is approved we would suggest that that developers should be required to maximise the provision of either green rooves or PV cells all suitable roof space.

Research shows that green rooves can provide valuable habitats for wildlife

<https://livingroofs.org/biodiversity-and-wildlife/> According to [www.livingroofs.org](http://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 rooves would be another means of increasing biodiversity within the proposed development.

### **Lighting**

We are greatly concerned by the implications for wildlife from the introduction of lighting into this rural area. Invertebrates, bats and birds are all highly sensitive to the introduction of lighting into dark areas. We consider that a full strategy on lighting and wildlife should be provided at this stage.

For the reasons described above, it is our opinion that this application should not be approved, and certainly not so in its current form. 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