



STATEMENT OF CASE BUTTERFLY CONSERVATION

Site at Gavray Drive, Bicester, OX26 6SU (nearest)

Planning Inspectorate Appeal ref: APP/C3105/W/17/3189611

Cherwell District Council Application ref: 15/00837/OUT

March 2018

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1. Introduction

Butterfly Conservation is the UK charity dedicated to saving butterflies and moths and their habitats. Our ‘Butterflies for the New Millennium’ database and National Moth Recording Scheme database contain more than 36 million records. Butterflies and moths indicate a wide range of other invertebrates, which comprise over two-thirds of all species. Moths and butterflies are also an important element of the food chain and are prey for birds, bats and other insectivorous vertebrate animals and they support a range of other predators and parasites, many of which are specific to individual species, or groups of species.

The core aims of Butterfly Conservation include:

1. Recover threatened butterflies and moths
2. Increase numbers of widespread species
3. Inspire people to understand and deliver species conservation

In addressing planning issues we seek to ensure that biodiversity is maintained and, where possible, enhanced, in line with the National Planning Policy Framework and with local planning policies that address biodiversity and nature conservation.

In respect of this case we are focussing on the issues, impacts and potential relating to the species of butterflies and moths known to use the Gavray Drive site, the assemblages of these, and their significance at the site, local, regional and national levels.

It is our understanding that some of the ecological investigations pertaining to this appeal are still ongoing, and as such we reserve the right to add to this statement of case if new evidence is brought to light prior to the commencement of the appeal start.

2. Background to the Appeal

The background to the appeal is as set out in the Statement of Case submitted by BBOWT and Butterfly Conservation see no need to repeat that here.

Butterfly Conservation agrees with the decision (refusal of outline planning permission) by Cherwell District Council (CDC) on point 1.

“1. The proposed development represents an inappropriate attempt at piecemeal development of the strategically allocated Bicester 13 site in the Cherwell Local Plan 2011-2031 Part 1 which, in the absence of a single comprehensive application covering the whole of the allocated site, leaves the Council unable to satisfactorily determine whether the proposals would enable development across the whole of the site to properly meet the overall objectives and requirements of Policy Bicester 13. In doing so the proposals fail to demonstrate that the allocated housing total can be appropriately provided across the allocated site in a manner that adequately protects and enhances locally significant ecological interests on the land to the east of Langford Brook which is in direct conflict with the inherent and sustainable balance contained within Policy Bicester 13 between housing delivery and biodiversity enhancement. As a result the proposals are considered to be contrary to the overall provisions of the Development Plan and the specific requirements of Policies Bicester 13, ESD10 and ESD11 of the Cherwell Local Plan 2011-2031 Part 1.”

The second reason listed as justification for refusal of this application is not directly pertinent to BC's statement of case and so is not detailed herein (although it is possible that reference to it may be made in our proof of evidence should this be deemed relevant in light of new information).

3. Butterfly Conservation's case

The appeal site forms part of the larger Bicester 13 site allocation identified in the Cherwell Local Plan 2011-2031, Part 1. Bicester 13 is subject to a number of ecological constraints as large parts of the eastern part are designated as Gavray Drive Local Wildlife Site (LWS) and the majority of the site is also covered by the River Ray Conservation Target Area (CTA). Conservation Target Areas were identified to focus work to restore biodiversity at a

landscape scale through maintenance, restoration and creation of priority habitats, and this is their principle aim. The LP policy Bicester 13 recognises the ecological sensitivity of the site and includes in its wording a number of requirements relating to the consideration of ecological impacts and the protection and enhancement of biodiversity, all of which need to be met as part of any development proposals on the Bicester 13 site. These requirements include amongst other things the need to secure a net gain in biodiversity, the protection of the Local Wildlife Site and the preparation and implementation of an ecological management plan to ensure the long-term conservation of habitats and species within the site. The policy also cross-refers to the requirements of other local plan policies (e.g. ESD11) in order to avoid adverse impacts on the CTA and to secure a net biodiversity gain.

It is our belief that the proposed development forming the subject of this appeal risks negatively impacting the biodiversity of the Local Wildlife Site and the wider landscape.

Our case for opposing this scheme is based on the following key issues:

Butterfly Diversity

31 of the UK's 56 species of butterfly (just under 54%) have been recorded at the site since 2000. **Five** of these butterfly species are listed as Species of Principal Importance in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 and were UK Biodiversity Action Plan species before that. The Forester moth *Adscita statices* (also a Section 41 species) has also been recorded at the site.

The Brown Hairstreak in particular is a species of significance in the Cherwell District and we are pleased that this is highlighted in Policy ESD 10.

It is recognised within the Ecology Chapter of the Environmental Statement (9.5.17) that the development will put the LWS at risk from adverse effects resulting from increased recreational pressure, not only from direct impacts but from indirect factors such as the interference in the effectiveness of historic land-management (20th Century) that generated this biodiversity, i.e. grazing. Natural England's Research Report 63 shows that Local Wildlife Sites close to urban areas are less likely to be positively managed. Policy Bicester 13 seeks to address that problem and its requirements should not be avoided.

Outstanding Assemblage

The development site and the LWS sit within Butterfly Conservation's Northern Clay Vales priority landscape, as identified in the Regional Action Plan for South East England 2016-

2025, highlighting this area as one of the most important areas in the region for its assemblage of priority butterflies and moths.

All five of the UK's Hairstreak butterflies have been recorded at Gavray Drive Meadow LWS (Black, Brown, Green, Purple and White-letter). Since 2006, this assemblage occurs at only seven known places in the UK. As such, this assemblage is of national significance.

The Black Hairstreak is one of the UK's rarest butterflies with a very limited distribution. The distribution of the Brown Hairstreak has declined by 43% since the 1970's. The distribution of the White-letter Hairstreak has declined by 53% since the 1970's and 44% since the 1990's in the Berkshire, Buckinghamshire, and Oxfordshire counties. The White-letter Hairstreak relies upon elm; any loss of elm due to the development or subsequent impacts would represent a degradation of resource. Planting new elms can be a possible mitigation strategy but evidence suggests colonisation is unlikely until around ten years after planting.

The Green Hairstreak is not a common butterfly and its distribution has declined 29% since the 1970's. Within Cherwell District it has only been found in this tetrad (2km square).

The Purple Hairstreak is common and widespread across England and so is not individually a species of significance. However this butterfly relies upon Oak (*Quercus sp.*) which is widely known to support a greater diversity of invertebrate species than any other tree in the UK, and as such the oaks are likely to be of at least local significance.

The White-letter Hairstreak has only been recorded in two tetrads in the Cherwell District since 2010. The records at the site are therefore of at least local significance for this Section 41 species.

A Robust Landscape-scale Approach

The development site and Gavray Drive Meadows LWS are part of an important wider landscape that requires a coordinated delivery of biodiversity conservation effort that increases connectivity of wildlife habitats and results in a net gain for biodiversity. Careful targeting of management, both across the site network and within each site, is essential to maximise the chances of success. The CTA Policy ESD11 recognises these principles and seeks to secure their delivery.

Degradation of any part of this network will result in the degradation of the whole and could result in localised species loss and an overall decline in biodiversity. A slow chipping-away

of the quantity and quality of valuable habitats is not consistent with the principles of the Lawton Report (2010).

We need “more, bigger, better managed and joined up” sites in a landscape level approach to wildlife. Ecological enhancement and protection adjacent to important or designated sites have the potential to improve robustness and stability of the network as a whole. Any development must be certain to deliver a significant net gain for biodiversity, enhancing the immediate area and the wider area of ecological interest. This needs to be set out clearly in any proposal via robust ecological accounting of existing value and showing clearly how the proposed development will deliver a net gain for the long-term.

4. Summary

Butterfly Conservation (like BBOWT) is not in principle against an appropriate amount of development on the Bicester 13 site. However, we need to be confident that any development will have adequate measures to ensure the protection of biodiversity and to deliver enhancement to the biodiversity of the LWS and the wider landscape. We are in agreement with BBOWT that the Bicester 13 site needs to be considered holistically to ensure that the requirements of the policy can be adequately met and that Cherwell Local Plan 2011-2031 local plan policies ESD10 and ESD11, which require development to deliver ecological enhancements and a net gain in biodiversity, are also met.

Sufficient plans need to be in place and enacted which deliver protection, management and enhancement of existing biodiversity and the creation of new opportunities to improve the robustness and resilience of the natural environment. It is important to note that the maintenance of existing high quality habitat is more cost effective in the long run than restoration management.

5. Conclusion

Butterfly Conservation remains committed to helping Cherwell District Council balance the needs for appropriate growth and its duty to conserve the best wildlife sites in the area. Policy Bicester 13 sets out a clear framework for achieving a balance between development and protecting and enhancing the considerable nature conservation interest within the Bicester 13 allocation site. We are not satisfied that the proposed development, which has come forward for parts of the allocation site, meets the policy requirements of policy Bicester 13.

The significance and value of the Lepidoptera diversity and assemblage of the Local Wildlife Site and the wider area has not been sufficiently recognised. In the absence of an effective ecological management plan the development will result in an unacceptable adverse impact on habitat and species. As such we consider the development to be in conflict with Cherwell Local Plan policies Bicester 13, ESD 10 and ESD11 as well as the NPPF.

Butterfly Conservation would like to reserve the right to amend, expand or add to the Statement of Case in light of any further submission from the Appellant, the Council or other interested parties.

6. Documents

The following documents may be referred to in our proof of evidence and used to support our case as opponents to the application forming the subject of this appeal.

- The Conservation of Habitats and Species Regulations 2017
- Wildlife and Countryside Act 1981(as amended)
- Countryside & Rights of Way Act 2000 (CRoW)
- Natural Environment and Rural Communities Act (NERC) 2006
- Joint Nature Conservation Committee (JNCC): UK Habitats and Species.
- National Planning Policy Framework (NPPF)
- Town and Country Planning Act 1990
- Butterfly Conservation's Regional Action Plan for South East England 2016-2025
- Butterfly Conservation's National Conservation Strategy (in press)
- Landscape-scale Conservation For Butterflies And Moths, Lessons from the UK; Butterfly Conservation (2012)
- Making Space for Nature – The Lawton Report (2010)
- Survey for the eggs and adults of the White-letter Hairstreak Butterfly (*Satyrrium w-album*) on land north of Gavray Drive, Bicester, Oxfordshire – Butterfly Conservation 2013
- Criteria for the Selection of Local Wildlife Sites in Berkshire, Buckinghamshire and Oxfordshire
- The value of different tree and shrub species to wildlife, Alexander, K., Butler, J. and Green, T. (2006) *British Wildlife* 18(1): 18 - 28
- Gavray Drive Local Wildlife Site citation (2002)

- Is the management of Local Wildlife Sites affected by the urban fringe? Natural England Research Reports, NERR063 (2016)