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27th April 2017
Our Ref: DW/Gavray/MP/270417

Dear Matthew

**15/00837/OUT | OUTLINE - Residential development of up to 180 dwellings,
Part Land On The North East Side Of Gavray Drive Bicester**

Please find my formal representation and reasoned **objection** to the above application. I look forward to seeing these matters reported to committee.

Please note that having seen representations from others, in particular that from BBOWT and Butterfly Conservation, I have sought to avoid replication and make separate points, which should be considered in addition to theirs.

Non-compliance with Local Plan policy

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions be made in accordance with the statutory development plan.

The adopted Cherwell Local Plan 2011-2031 contains a site-specific policy relating to the land north-east of Gavray Drive (Policy Bicester 13). The policy relates to the whole of that land, and it is clear that the Council's strategic plan is for development of that site to be by means of an integrated and holistic development strategy, not by means of piecemeal increments.

This application is for such piecemeal development on a part of that land. While such an approach is not expressly prohibited in the Local Plan, the requirements and end-objectives for development of the wider site under Bicester 13 still apply.

This application fails to engage with several policy requirements and thus does not conform to the requirements of Policy Bicester 13. There are two main compliance failures I wish to draw attention to, and I do this in more detail below:

1) *The application provides no Ecological Management Plan to prevent harm to the Local Wildlife Site and the protected species interests on the eastern part of the site*

Policy Bicester 13 recognises the significant wildlife interests on this site and cites at paras C.104 and C.105 of the adopted Local Plan. It requires that **any** development proposal makes appropriate provision for these interests. In particular, the supporting text to the policy states the following (my emphasis added):

Para C.106: "There is a risk of harming the large number of recorded protected species towards the eastern part of the site. Impacts need to be minimised by **any** proposal".

Para C.107: "Although there are a number of known constraints such as Flood Zone 3, River Ray Conservation Target Area and protected species, this could be addressed with appropriate mitigation measures by **any** proposal".

Furthermore, within the main text of the Policy itself, it is stated that development must comply with a number of "key site specific design and place shaping principles". These include:

- The **preparation and implementation of an Ecological Management Plan** to ensure the long-term conservation of habitats and species within the site.
- Delivery of a central area of open space *either side of Langford Brook*, **incorporating part of the Local Wildlife Site** and **with access appropriately managed to protect ecological value**

Again, the application includes no such provision and is therefore not compliant with Policy Bicester 13.

We have corresponded on this issue (although I note such correspondence has not been uploaded to the on-line planning file and I query why that is the case). You have most recently stated that officers' position is that there is not enough evidence to suggest that the Local Wildlife Site and the protected species interests on the eastern part of the site would be under threat of damage or deterioration from any increase in *de facto* use arising from having 180 units next door. This is despite numerous submissions from relevant statutory and non-statutory consultees outlining just such concerns. I note that there is implicit recognition of such a risk in Policy Bicester 13, but I also believe that since you made that comment, further evidence has been provided to you by BBOWT of such threats, and I am also compiling further site-specific evidence of how the only likely outcome is damage to the LWS and other sensitive features on Gavray East in the absence of the 'appropriate access management' and Ecological Management Plan that the Policy requires in any event.

a) *Compromising the ability to achieve a 'net biodiversity gain'*

The piecemeal approach to development of the Bicester 13 site being advanced by the applicant through this application creates a significant degree of uncertainty about how the various overarching requirements of Policy Bicester 13 will ultimately be achieved. What is beyond dispute, however, is that in submitting an application for 180 units on the western part of the site, a situation is created whereby delivery of the remaining 120 of the allocation will have to be achieved on the eastern part of the site, despite this being recognised as far more sensitive in the supporting text to Policy Bicester 13.

There is at best a position of acute disagreement or uncertainty over whether the remaining balance of 120 units can be accommodated on Gavray Drive East while securing 'net gain'. The applicants say it can, while my view, shared by other experts in the conservation sector, including the Council's own ecologist, is that it cannot. If it cannot a further key provision of Policy Bicester 13 is offended.

Recently, the applicant's ecological consultants EDP have submitted biodiversity offsetting calculations intended to convey that net gain on Gavray East is possible even with 120 units. We have corresponded at some length about the lack of contextual information for this supporting information, and I continue to have grave concerns that its outputs and the claims made on the back of it by the developer are at risk of being taken at 'face value' simply through lack of understanding, and lack of adequate publicity and transparency in the context of the EIA process.

In any event, the fact is that the calculator output submitted by the applicant for Gavray West is open to challenge in a number of areas. Key habitats have been misclassified and there has been artificial downgrading of their distinctiveness and value, while at the same time inflating the prospects and likely outcomes of those that are indicated to be retained. Attached as an annex to this letter is a critique of the Gavray East calculator (you have already had my view on that for Gavray West, although again I note this has not been made publicly available). I also provide an alternative (more realistic) output. This alternative output, based on correcting such errors, indicates that on the basis of the indicative masterplan for Gavray Drive East the outcome indicated by the calculator is **net loss** of biodiversity. The indicative masterplan submitted to you in support of the applicant's case for granting consent for 15/00837/OUT therefore serves as evidence that granting permission will create a situation where the key design and place making principles of Policy Bicester 13 cannot all be delivered.

In short, granting permission for 180 units at Gavray Drive West will sabotage the prospects of net biodiversity gain ultimately being achieved in accordance with Policy Bicester 13. It would therefore contravene the policy objectives.

I and others have previously submitted representations suggesting that the density of dwellings on Gavray West should be reviewed and revised upwards to reduce the burden on the far the more sensitive eastern part of the site. No good reason why this less damaging alternative is not feasible has been given by the applicant. There has also been no good reason given why they, as a major strategic developer, cannot submit a holistic masterplan for the entire site that deals with all the policy requirements and resolves the site's future finally, and in short order. I comment further on why this is an unsatisfactory situation for all concerned at the end of this letter.

Development would compromise delivery of an outstanding commitment voted on by Councillors

In October 2014, Councillors voted to pursue Local Green Space designation for all of the land at Gavray Drive East north of footpath FP129/4 in recognition of its value to the local community, including for wildlife and quiet recreation. Nothing in Policy Bicester 13 prevents that aspiration still being achieved, and indeed it is entirely compatible with the design and place-shaping principles that are set out, including in relation to how the Conservation Target Area and LWS should be treated.

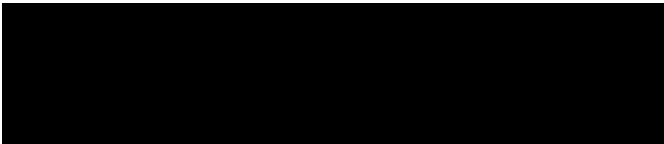
For similar reasons as set out above, the indicative masterplan for Gavray Drive East submitted by the applicant reveals an intention to build on effectively all of the area for which Councillors voted to pursue Local Green Space designation (as against that already protected as Local Wildlife Site). Thus, granting consent for 15/00837/OUT will set up a situation where this commitment, duly voted upon by Councillors, and which is still outstanding and patently not forgotten by local people, becomes impossible to deliver.

Conflict with strategic planning objectives / poor planning generally

Notwithstanding all the specific problems with policy compliance set out above, and in the submissions of others, there are other very good reasons why the Council should not be accepting this 'bitty' approach by the applicant. No timetable appears to have been set by which the eastern part of the site would come forward, and thus delivery of approaching half of the housing allocation (and its important contribution to District-wide need) is left to some time in the future. Given the far greater complexities and constraints on the eastern part of the site, there is no guarantee that this remaining development will come forward in short order, leaving the site in an unresolved state for a significant further period. The applicant's track record in trying to resolve these problems is not good and Councillors

have complained bitterly about the lack of resolution of this site in the past. What is being offered even now is only partial, not total resolution, despite the Council having put in place a framework for the whole site. Given that the applicant controls the whole site, and has previously submitted masterplans for the entirety of it, there is no legitimate reason not to do so now, unless perhaps there are aspirations to walk-away from Gavray East, sit on it for a further period in the hope that the constraints 'go away', or sell it on to another developer that will have achieved no profit from Gavray West and will therefore be far less disposed to respond positively to the design and place shaping principles set out in the policy. For all these reasons, the prospects of an unsatisfactory solution for all (Council, local residents, interested parties) will be hugely exacerbated if this application is granted planning consent, and there are clear policy reasons not to. At the very least, modification is required to a) secure the management plan for the LWS required by Policy Bicester 13 and b) look again at densities and the consequent 'fall-out' for delivery of the policy requirements for Gavray East. In the absence of those commitments being secured, I repeat my strong objection to these proposals.

Best regards



Dominic Woodfield CEcol CEnv MCIEEM

ANNEX TO DOMINIC WOODFELD LETTER OF 27/04/17

Gavray Drive East EDP offsetting calculator review

Habitats to be retained and enhanced within the development (GD East): 7.56ha

Habitats to be lost to development: 8.18ha

Total = 15.74

The LWS east of Langford Brook is circa 9ha, so the 7.56ha figure above would suggest that the intention is not to retain and enhance around 1.5ha of the LWS, but to build on it. It is unclear if this land will be used for development. Either way, this would not comply with applicable Local Planning policies nor the developer's previously stated intentions.

Of the land to be used for development (8.18ha of the site), a figure of 3.15 ha has been input as 'unimproved neutral grassland' of moderate condition deliverable in 10 years. With reference to the masterplan for Gavray East submitted in support of the calculator on 12/04/17, where is this 3.15ha proposed to go? I note that there is no provision for amenity grassland of the type that would be expected to provide recreational open space, so one must assume that the unimproved grassland is expected to perform a dual function hard-wearing amenity uses, and sensitive, high distinctiveness wildlife habitat, all over the course of its creation and establishment from a standing start to the point at ten years where it is cited to be in moderate condition. The nonsense in such assumptions is self-evident to anyone with even the most basic appreciation of unimproved grassland habitats of high distinctiveness. The applicant provides no empirical evidence of delivery of unimproved grassland habitat of equivalent value to that under threat at this site within this timescale and secondly provides no evidence or case studies demonstrating where open space provision in a development has successfully been reconciled with management as unimproved grassland.

An alternative explanation may be that this 3.15ha of grassland is an attempt to double-count for a proportion of the 5.12ha of semi-improved neutral grassland that is claimed to be retained and enhanced. However both figures are less than the circa 6ha of priority habitat mapped by TVERC, and the 5.12ha figure of loss suggests that it is envisaged that approaching 1ha of priority habitat is expected to be removed. As the red text on the calculator says, "Destruction of habitats of high distinctiveness, e.g. lowland meadow or ancient woodland, may be against local policy. Has the mitigation hierarchy been followed, can impact to these habitats be avoided?"

Any unavoidable loss of habitats of high distinctiveness must be replaced like-for-like."

No significant provision for creation of amenity open space is made. Unimproved neutral grassland will not be able to absorb open space pressures. Taking account of the need for formal play space there would thus appear to be no provision for delivery of the open space standards required to be delivered by Policy BSC10 etc in the Cherwell Local Plan. Furthermore, it exposes the intention that the LWS is intended to be used to absorb the open space demands of the development at Gavray Drive East. This would be incompatible with its proper management in order to deliver the stated enhancements, and is more likely to give rise to net negative effects, which we note have not been quantified in the calculator.

The figure for 'area of built development' on the calculator is 3.49ha. Only 3ha is required to achieve 120 units at a standard density of 40 dph.

The purple and yellow coloured cells are 'non-standard' as compared with the downloadable version of the calculator and have not been explained. Similarly, non-standard 'distinctiveness' attributions have been used without any explanation of this deviation from the methodology (e.g. demotion of semi-improved grassland and continuous scrub from 'medium' to 'medium-low' distinctiveness). This has had a significant suppressing effect on the 'existing value' scores of habitats to be lost to development.

The areas to be lost to development that are classed as 'tall ruderal' (possibly including Field 1 in the SE corner of the site) are in fact a complex area of scrub and grassland developed as a consequence of past disturbance of permanent pasture and subsequent neglect. These now support populations of bee orchid (including var trolli - wasp orchid), early marsh and pyramidal orchid and high densities of reptiles. This area may not easily fit into the pigeon-hole categories of the calculator but in any event it is not 'tall ruderal'. We question the allocation of this low intrinsic value habitat type to these areas.

It is grossly misleading to suggest that the extant resource in the LWS is semi-improved grassland that will be enhanced to unimproved grassland. There is heavy reliance on this trade up. In reality, the extant resource in the LWS (and arguably in places outside that will be lost to the development) is unimproved grassland, and the only trade unavailable is a change in condition from the current poor state of these grasslands (due in itself to deliberate neglect by the developer) to a moderate condition. 'Good' would require grazing which will be impractical without stock rotation areas – the masterplan makes no provision for these. Improvement of condition even to 'moderate' will only occur with delivery of appropriate management – seasonal cuts. The calculator and the masterplan makes clear that delivery of such management is likely to be compromised by recreational and amenity pressures as it is clear that there is an intention to use the LWS as open space for the development. The Warwickshire guidance states that "*Target condition should only be one step up from the original unless robust reasoning can [sic] with support of the management plan*". Here, there is stated to be a trade up from poor condition semi-improved neutral grassland to unimproved neutral grassland of moderate condition. By any analysis, that is more than "one step up". It is one simple illustration of how the calculator has been doctored to deliver a 'no net loss' answer.

We note that if the calculator is amended to correct even some of the above errors of interpretation, a negative 'net loss to biodiversity' result is delivered. See the attached output. This result would not comply with Policy Bicester 13, and yet on the strength of the applicant's own evidence granting permission for 15/00837/OUT would effectively ensures it.

KEY
No action required
Enter value
Drop-down menu
Calculation
Automatic lookup
Result

Local Planning Authority:	
Site name:	
Planning application reference number:	
Assessor:	
Date:	

Please do not edit the formulae or structure
To condense the form for display hide vacant rows, do not delete them
If additional rows are required, or to provide feedback on the calculator please contact WCC Ecological Services

Existing habitats on site Please enter all habitats within the site boundary				Habitat distinctiveness		Habitat condition		Habitat Biodiversity Value				Comment		
T. Note	code	Phase 1 habitat description	Habitat area (ha)	Distinctiveness	Score	Condition	Score	Area (ha)	Existing value	Area (ha)	Existing value		Area (ha)	Existing value
Direct Impacts and retained habitats				A	B	C	D	E	F	G	H			
B21		Grassland: Unimproved neutral grassland	6.08	High	6	Poor	1			6.08	36.48			
B6		Grassland: Poor semi-improved grassland	3.40	Medium	4	Good	3	1.60	19.20			1.80	21.60	
B22		Grassland: Semi-improved neutral grassland	2.00	Medium	4	Good	3					2.00	24.00	
A21		Woodland: Dense continuous scrub	3.72	Medium	4	Good	3	0.60	7.20	1.69	20.28	1.43	17.16	
G1		Wetland: Standing water	0.03	High	6	Moderate	2			0.01	0.12	0.02	0.24	
Total			15.23					2.20	26.40	7.78	56.88	5.25	63.00	
											Site habitat biodiversity value		146.28	
Indirect Impacts Including off site habitats				Value of loss from indirect impacts		K x A x B = Li, Lii		Li - Lii						
Before/after impact			K											
Before														
After														
Before														
After														
Before														
After														
Before														
After														
Total			0.00					M	0.00			HIS = J + M		
											Habitat Impact Score (HIS)		63.00	

CAUTION - Destruction of habitats of high distinctiveness, e.g. lowland meadow or ancient woodland, may be against local policy. Has the mitigation hierarchy been followed, can impact to these habitats be avoided?
Any unavoidable loss of habitats of high distinctiveness must be replaced like-for-like.

Proposed habitats on site (Onsite mitigation)				Target habitats distinctiveness		Target habitat condition		Time till target condition		Difficulty of creation / restoration		Habitat biodiversity value	Comment	
T. Note	code	Phase 1 habitat description	Area (ha)	Distinctiveness	Score	Condition	Score	Time (years)	Score	Difficulty	Score	(N x O x P) / Q / R		
Habitat Creation				N	O	P		Q	R					
n/a		Built Environment: Buildings/hardstanding	3.23	none	0	Poor	1	5 years	1.2	Low	1	0.00		
n/a		Built Environment: Gardens (lawn and planting)	1.39	Low	2	Moderate	2	5 years	1.2	Low	1	4.63		
J12		Grassland: Amenity grassland	0.39	Low	2	Poor	1	5 years	1.2	Low	1	0.65		
G1		Wetland: Standing water	0.04	High	6	Good	3	10 years	1.4	Medium	1.5	0.34		
Total			5.05	ERROR - Total area of habitats created must equal total area of habitats lost										
Habitat Enhancement				Existing value S (= F)								((N x O x P) - S) / Q / R		
B21		Grassland: Unimproved neutral grassland	6.08	High	6	Moderate	2	5 years	1.2	Low	1	30.40		
G1		Wetland: Standing water	0.01	High	6	Good	3	5 years	1.2	Medium	1.5	0.02		
Total			6.09	ERROR - Total area of habitats restored must equal total area of habitats to be restored								Trading down correction value		
											Habitat Mitigation Score (HMS)		30.77	
											Habitat Biodiversity Impact Score		-32.23	Loss
											Percentage of biodiversity impact loss		51.17	

KEY

No action required	
Action required	
Drop-down menu	
Calculation	
Automatic lookup	
Overall Result	Loss to biodiversity
	Gain to biodiversity