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VIA E-MAIL

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Dear Bernadette

**RE: LAND ON THE NORTH-EAST SIDE OF GAVRAY DRIVE, BICESTER
COMMENTS ON EIA SCOPING REPORT**

Please find below my comments on the scoping report submitted to Cherwell District Council (CDC) by David Lock Associates (DLA) on behalf of L&Q Estates in respect of the above site off Gavray Drive, Bicester.

I structure my comments in three parts. The first deals with the apparent 'direction of travel' of development proposals, as conveyed by the 'Consolidated Constraints and Opportunities Plan' at Appendix 2 to the scoping report. The second deals with the scope of the EIA studies specifically and the final comment is on matters that the applicant intends to be 'scoped out' of the EIA.

Comments on 'Consolidated Constraints and Opportunities Plan'

Adopted Local Plan Policy Bicester 13 sets out a framework for permitting a limited amount of housing within this complex site that encompasses relatively unconstrained land west of Langford Brook and highly constrained land to its east. The amount of housing delivery is to be dictated by and commensurate with protection of the site's important biodiversity assets (universally recognised as being focused on the land to the east of Langford Brook), and on the condition that the future management of these important habitats is secured by a developer-funded wildlife management plan.

The policy's stated housing yield for the site (300 units) was the consequence of a lack of detailed consideration in the Local Plan examination; there was always a clear incongruity between the site capacity inferred by the policy and proper reconciliation of the competing housing delivery and environmental protection aims. L&Qs latest proposals appear to recognise and respond to this 'something has to give' problem, and they have duly reduced the number of units from 300 to 202. This recognition and response is welcomed. However, the indicative proposals still show an intention to build housing right up to the boundaries of the Local Wildlife Site and within the Conservation Target Area east of Langford Brook (itself protected by Policy ESD11). These parcels would require incursion into parts of two ridge and furrow pasture fields, leaving an arbitrary interface to the remaining parts of these fields for which the landscape and drainage treatments are not defined. To build within these parcels there would also be a need for land-raising to address high groundwater levels, generating knock on technical challenges, including how the hedgerows and trees proposed to be retained would actually survive between raised building platforms and how adequate access and circulation would be achieved. There would be no open space buffer to the LWS and the

development would denude the extent of semi-improved grassland that acts in concert with the core designated area to support the particular biodiversity interests of the site.

Because of this, whilst the current proposals are a welcome progression towards the spirit and letter of what Bicester 13 is intended to deliver, they are not there yet. There still remains scope to achieve this and avoid yet another protracted planning battle by removing the incongruous development parcels from the CTA and incorporating these displaced units in the west of the site through increasing densities in this less sensitive area. Indeed, 'gentle densification' here (to borrow a phrase from the Government's latest planning white paper) might provide a means to push housing delivery back up towards the 250 mark, which would be to the benefit of both Cherwell District Council and L&Q. CDC appears in the past to have been resistant to this 'gentle densification' on the least constrained and contentious part of the site for reasons which are not clear or which do not withstand scrutiny. Increasing building heights to three stories and increasing the proportion of flatted or otherwise smaller units in this western area will not create a landscape and visual precedent for various reasons. These include the presence of such units within Langford Village already, the increased proximity of this area to the town centre and in particular the very tall structures associated with the nearby industrial estates and the further visual containment provided by the railway embankment. This approach would provide a means to ensure adequate protection of the LWS and CTA, securing the future of the most important wildlife asset within the Bicester locality, with its ancient hedgerows still in their medieval or pre-medieval field pattern, and its ridge and furrow fields supporting rare grassland communities and a host of rare and protected species.

Comments on the scope of studies included in the EIA

In terms of the scope of the studies that the EIA should cover, observations relevant to the scoping process are made below by reference to the relevant paragraph number in the scoping report. I have restricted my comments mostly to ecology at this stage:

1.12 The 'four levels of significance' approach outlined in this paragraph has for some considerable time now not been the preferred or industry-standard approach in terms of ecological impact assessment methodology. It is strongly recommended that the approach set out in CIEEM's Guidelines for Ecological Impact Assessment version 1.1 updated September 2019 be followed, as this is the industry standard.

2.10 The intention to refine the Constraints and Opportunities Plan in the light of further technical work, stakeholder input and community engagement is noted and welcomed. The comments in the preceding section of this representation are intended to help that process.

5.2 The ability for myself and other members of the public to comment on the proposed scope of the ecology aspects of the EIA is hindered by the absence of any detail in this paragraph about what studies have and have not been updated and what their results have been. This information ought to have been included and its absence somewhat denudes the validity of the scoping exercise.

5.3 There is an inconsistency between the references to the EcIA Guidelines in this paragraph and the methodology for impact assessment set out at para 1.12 (as commented on above). This conflict in methodological approaches needs to be clarified and resolved.

5.4 In order to assess the effectiveness of the proposed Wildlife Management Plan (WMP), information on costings, funding and delivery mechanisms (including whom it is intended will be responsible for implementation) should be provided. It will not be enough to simply submit 'heads of terms' as the weight to be afforded to the WMP in assessing the performance of the proposals against relevant national and local policy will be contingent in large part on its viability and deliverability, not just its starting aims. This is essential.

5.5 There is no mention here or anywhere in the scoping report of the use of biodiversity metrics to assist with measuring the performance of the proposals against national and local policies around 'net gain', including Cherwell's adopted policy of requiring 10% net biodiversity gains through the planning system, as secured at a meeting of the CDC executive in October 2019¹. The use of such metrics is of course not a substitute for expert analysis, nor the application of industry standard approaches to EclA, but is of value in supplementing those approaches and in assisting in the assessment of whether such % targets are achieved. It is possible that this 10% net gain requirement will have been further mandated via the Environment Bill prior to any decision on this application being made and therefore addressing this would also be prudent to prevent delays to determination.

5.7 It is disappointing that DLA are choosing once again to wilfully misrepresent Natural England's position, as they and the previous applicant did in 2018. NE's representation is not a statement of 'no objection', but merely a statement that they are not concerned about significant effects on *statutory sites* as that is the current limit of their consideration. For non-statutory sites and protected species, they clearly direct the Council to seek advice from other parties such as BBOWT and Butterfly Conservation. CDC should not be misled by the statements in this paragraph.

5.8 *Non-statutory designations*: The River Ray Conservation Target Area (CTA) has been omitted as a receptor. It should clearly be included and impacts on its integrity and function must be considered in line with its purpose as part of a nature recovery network and as subject to Policy ESD11.

Grassland: The grassland resource of ecological interest (including for protected and priority species) is not confined to the LWS as is implied. All grassland habitats outside the LWS and within Gavray East should therefore also be considered as receptors.

Ecologically Important Hedgerows: in order to cover all material considerations, these should encompass 'priority' hedgerows subject to the biodiversity duty (NERC Act Section 40-41) and not be confined merely to hedgerows defined as 'Important' under the 1997 Regs which would omit relevant material considerations.

Historic field ponds: this is too restrictive a category to encompass the full range of waterbodies on the site, which include wet furrows in ridge and furrow fields, ditches and other seasonally waterlogged areas which can (and have) supported great crested newts. All waterbodies on the site should be receptors.

Species: In the absence of any detail about what survey work has been done (see under 5.2 above) I would challenge the exclusion of water voles (reported from the Langford Brook downstream of the site in the past) and otters (rapidly re-colonising old haunts so cannot be assumed to be absent without up to date survey). I have found badger footprints on the site in the recent past so the exclusion of this species also seems prejudicial. On the other hand, I agree that marsh fritillary is no longer present on the site.

Comments on topics intended to be 'scoped out' of the EIA

In the interests of ensuring the EIA process is robust, I must draw attention to the misleading and arguably disingenuous comments included within the David Lock Associates (DLA) scoping report at para 1.6 concerning the absence of significant ecological effects identified by previous EIA processes. Taken together with the various planning and senior court decisions since 2004, the references to these past conclusions in this paragraph merely underlines the failings of previous EIA studies. In the interests of ensuring this does not happen again, I would remark that the intention to scope out air quality and noise needs to be considered in light of previous omissions in an EIA for this site (similarly overseen by DLA) which proved instrumental in the quashing of the previous consent for

¹ <https://www.cherwell.gov.uk/news/article/624/council-ramps-up-biodiversity-target>

this site 10/01167/OUT. I am not convinced that the case is properly made out in the report that air quality and noise issues associated with the volume of construction traffic generated by the current proposals for land raising is sufficiently reduced from that associated with the previous consent to fall below the EIA threshold. Indeed, the inclusion of such movements within the transportation effects to be considered by the EIA (para 4.5 of the scoping report) suggests otherwise. I think it would be wise to settle this point prior to the agreement of scope and/or conclusion of the EIA studies.

I trust these comments are helpful.

Best regards



Dominic Woodfield CEcol CEnv MCIEEM
Director