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Planning Committee Members  
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January 11<sup>th</sup> 2022

by e-mail

Dear Councillor,

**Re 21/01224/OUT Outline planning application for Automotive Experience Quarter comprising Commercial, Business and Services uses (Class E), Light Industrial (Class B2), Local Community and Learning Uses (Class F) and vehicle circuits (Sui Generis) with all matters reserved aside from that of access).**

**Statutory consultee objections and other unresolved concerns related to impact on Bicester World War II airfield Scheduled Monument designation, 1021455 and Bicester Airfield Local Wildlife Site designation, 52X10**

As you will be aware, the above application to build on part of Bicester Airfield Listed Scheduled Monument and Bicester Airfield Local Wildlife Site is due for consideration at this Thursday's planning meeting, January 13<sup>th</sup> 2022. CPRE maintains its **strong objections** to these proposals and **suggests to Councillors that there should be much more thought before approving an application that is also subject to an outstanding statutory objection from Historic England** regarding a high level of harm to the historic assets of the site – in particular the unique open grass flying field and the setting for the buildings in the Conservation Area (Historic England consultee report, May 25<sup>th</sup> 2021).

Beyond this, CPRE are seriously concerned about a number of matters raised in the Officer's Report. There are many objections from local residents to the prospect of increased noise and traffic associated with increased visitor activities and intensified motorsport uses and CPRE support the valid objections and concerns of Launton, Stratton Audley and Caversfield Parish Councils. Apart from its historical and ecological significance, the site is also of high archaeological importance and we note that Oxfordshire County Council officers request trial trenching and a written report **before** a planning decision is made. This of itself presents a strong case for deferral of the decision.

This application represents one of a series of incremental applications to build over portions of the Bicester Airfield Local Wildlife Site (LWS), including a hotel, a car park and six employment buildings called the 'Innovation Quarter' which have previously been given



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Campaigning to protect our rural county planning permission by your Council. All these developments will reduce the area and quality of the wildlife site and will entail loss of irreplaceable habitat resources – in particular of the priority habitat Lowland Calcareous Grassland for which the Council has statutory duties under the Natural Environment and Rural Communities Act 2006 and latterly the Environment Act 2021 which became law very recently in November. CPRE has raised objections to the destruction of the LWS and its irreplaceable habitats at each of these applications. When the scoping application for the Experience Quarter was submitted, CPRE challenged your officer's decision not to ask for an Environmental Impact Assessment (EIA) which would have taken into account the cumulative negative effect on the LWS of the current with the previous proposals. CPRE also flagged up that the decision letter dismissed the site as an industrial development site and made a legal error in not referring to the site having the major sensitivities of being a Scheduled Monument and also a LWS. These challenges were not addressed by planning officers. The lack of communication from planning officers was the subject of a formal complaint COM000983.

By submitting applications for sequential chunks of the airfield Local Wildlife Site to be developed- in a tactic known as 'salami slicing' - the developers have sought to (and hitherto been allowed to) avoid due scrutiny of the cumulative impact of these several applications on the environment. **If it continues to facilitate the tactical 'salami-slicing' approach of the applicant, the council will lay itself open to legal challenge as such an approach to projects that would normally trigger EIA has been found by the courts to be unlawful.** For example, in its judgement R (Larkfleet Limited) v South Kesteven District Council [2016] Env. L.R. 76, the Court of Appeal held when dealing with significant cumulative impacts that:- *"What is in substance and reality a single project cannot be "salami-sliced" into smaller projects which fall below the relevant threshold so as to avoid EIA scrutiny."*

On October 24<sup>th</sup> 2021, CPRE requested a deferral of the decision about the current application (21/01224/OUT) until the matter regarding the EIA and other concerns were settled. On November 4th 2021, CPRE received an e-mail from the Planning Committee Chair, Councillor Reynolds, promising that a full response to these matters would be sent but none has been received to date.

Finally, CPRE are extremely sceptical that the mitigation measures proposed for the destruction of calcareous grassland in the LWS caused by the construction of the 'Experience Quarter' will be successful. CPRE have sought expert advice on this matter from specialist consultant ecologists who have exposed flaws in the Biodiversity Net Gain (BNG) calculations put forward by the applicant, and consider that the mitigation and compensation proposals are based on unsupported leaps of faith best characterised as



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If the Council is satisfied that what is little more than a leap in the dark in terms of mitigation and compensation is acceptable, in order to comply with its duties under the NERC and Environment Acts we suggest that additional checks and balances are required, even if permission were to be granted. The proposed Landscape and Environmental Management Plan condition (condition 20) does not provide adequate assurance that the claimed BNG will be delivered and therefore in the event Councillors believe the application should be permitted, we strongly advise the following additional condition to ensure compliance with local and national policy and statute:

**Suggested additional condition if Councillor's are minded to approve:**

*No development shall take place until a Biodiversity Net Gain Plan (BNGP), including a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. The BNGP shall specify the following matters in accordance with the requirements of Schedule 14 of the Environment Act 2021:*

- a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;*
- b) the pre-development biodiversity value of the onsite habitat;*
- c) the anticipated post-development biodiversity value of the onsite habitat, including technical justifications as to the achievability of target habitats;*
- d) any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development;*
- e) any biodiversity credits purchased for the development;*
- f) provision for independent monitoring of the delivery of the BNG;*
- g) provision for remedial actions in the event that the anticipated BNG is not delivered.*

*Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework and to ensure that any unavoidable losses are adequately compensated in accordance with the District Council's resolution dated 07 October 2019 that all new development should achieve 10% net gain in biodiversity consistent*



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*with the Environment Act 2021. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.*

It should be emphasised that the suggestion of this additional condition is without prejudice to CPRE's position that this application should be refused or at least deferred for the other reasons set out in this letter.

To re-cap and conclude, CPRE maintains that this application should be deferred or rejected for the following reasons.

- It has attracted a statutory objection from Historic England due to the degree of harm to a Scheduled Monument and one of Bicester's most important historic assets. We agree with Historic England that other more sensitive means to deliver sustainable end-uses for the site in accordance with Policy Bicester 8 and these have simply not been adequately explored.
- It should not be determined until the archaeological evaluation recommended by OCC has been carried out.
- The proposal will result in irreparable damage to a designated Local Wildlife Site (and likely loss of that designation) and loss of irreplaceable 'Priority' habitat with the proposed mitigation and compensation likely being ineffective, in part due to conflicts with other uses. This will lead to net loss of biodiversity in conflict with the NPPF and Local Plan policy ESD10.
- The proposal represents part of a wider suite of applications for the site that are clearly interrelated and capable of having significant cumulative effects on the environment, and therefore the absence of EIA provides grounds for legal challenge of any decision to approve on the grounds that it represents a 'salami slicing' approach found to be unlawful in the courts.

We urge councillors to take on board the above comments and vote to defer or refuse this application on the 13<sup>th</sup> January.

David Gilmour and Pamela Roberts

Sir David Gilmour, Chair Cherwell District CPRE

Dr PJ Roberts, Vice Chair Cherwell District CPRE



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