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Cherwell District Council  
FAO: Bernadette Owens  
**By email only**

09/09/21

Dear Bernadette

**Application No: 21/02861/SCOP**

**Proposal: Scoping Opinion - proposal comprises the development of employment use, landscaping, and associated infrastructure including drainage and engineering works Location: OS Parcel 5700 South West Of Grange Farm, Street Through Little Chesterton, Chesterton**

In relation to the above scoping opinion request we have the following comments on behalf of the Berks, Bucks and Oxon Wildlife Trust. As a wildlife conservation focused organisation, our comments refer specifically to impacts on species and their habitats which may occur as a result of the proposed development. We have the following comments with regard to the scoping of the proposed contents:

**Impacts of proposed development on designated sites of importance for wildlife**

**NPPF paragraph 180 states:**

“When determining planning applications, local planning authorities should apply the following principles:

.....

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”

The proposed development includes a parcel of ancient woodland. Appropriate measures to avoid, mitigate or compensate for negative impacts on the ancient woodland should be specified within the EIA.

We would suggest that at a minimum any proposals should include a 50m buffer between any development and the ancient woodland.

**Cumulative Impacts**

**The EIA should evaluate potential negative impacts on features of nature conservation importance that may arise as a result of other plans and projects either existing, in development or proposed. Appropriate measures to avoid, mitigation or compensate for these negative impacts should be specified within the EIA.**

## **Avoidance of impact on priority habitat and protected and priority species**

NPPF paragraph 179 states:

*“To protect and enhance biodiversity and geodiversity, plans should:*

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and*
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

**Any application must include appropriate surveys, an assessment of impact, and details of mitigation, compensation and enhancement measures. These must deal with impacts on habitats (including hedgerows) and on species.**

**Hedgerows should be retained and enhanced.** In exceptional circumstances if proposals involve removal of small sections of hedgerow for access purposes then a substantially longer section of hedgerow should be planted elsewhere on site to provide compensation. A management regime should be put in place for hedgerows across the site including a three-year rotation for trimming and allowing some stretches of hedgerow to remain untrimmed for longer.

There should also be at least a 15m buffer between any development and the hedgerows. These buffers should be maintained as dark corridors and should be of appropriate semi-natural priority habitat such as a mosaic of scrub and species-rich grassland.

**It will be up to the developer to determine appropriate species surveys, assessments and mitigation however we would point out the following with respect to some species groups that are particularly likely to be impacted.**

Paragraph 11.10 of the EIA scoping opinion states...

*“Breeding Bird surveys found the EIA Study Area to support low numbers of Red and Amber List species, although species recorded were typical of a farmland assemblage in Oxfordshire”*

Defra has provided guidance to competent authorities (including local authorities) on how to comply with the legal requirements of the [Conservation of Habitats and Species Regulations 2010](#) as amended in paragraph 9a of the [Conservation of Habitats and Species \(Amendment\) 2012 Regulations](#)). The guidance is available at: <https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>.

The guidance for this legislation (<https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>) states that:

- “You must, as part of your existing duties as a competent authority, take the steps you consider appropriate to preserve, maintain and re-establish habitat that is large and varied enough for wild birds to support their population in the long term....
- You must use your powers so that any pollution or deterioration of wild bird habitat is avoided as far as possible.....
- There are no national population targets for wild birds. However, you must aim to provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live. ....
- You should focus on habitats for wild birds in decline but also maintain habitats supporting wild birds with healthier populations.” .....
- You must...consider bird populations when consulting on or granting consents, such as planning permissions, environmental permits, development or environmental consents, and other consents”

In terms of the legal requirements of paragraph 9A of the Conservation of Habitats and Species Regulations 2010 as amended in the Conservation of Habitats and Species (Amendment) 2012 Regulations), **any application will need to demonstrate it will take sufficient steps “to preserve, maintain and re-establish habitat that is large and varied enough for wild birds to support their population in the long term.....and demonstrate it will “provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live”**

**The EIA or ecological report should include comprehensive protected species surveys for all protected species identified, undertaken by appropriately qualified consultants in line with best practice guidance. Impacts on species identified as priority species under the NERC Act 2006 should also be evaluated. Appropriate measures to avoid, mitigate or compensate for these negative impacts should be specified within the EIA.**

**Depending on the outcome of breeding and wintering bird surveys, then with respect to any priority species impacted, off-site compensation will be needed** unless the developer can prove that the habitats provided on site will be sufficient to maintain or enhance the same populations of these species. On-site provision would be difficult or impossible for birds such as lapwing, golden plover, skylark and some other priority species unless large areas of the site were set aside as undisturbed habitat. It would not be acceptable to suggest that there is suitable habitat elsewhere for priority farmland species since the territories in these areas would already be occupied, and this would be contrary to ecological theory of carrying capacity. Several nearby large developments in the Bicester area and surrounding Aylesbury in Buckinghamshire have all set clear precedents for the provision of compensatory habitat for species such as skylark, linnet, yellowhammer, golden plover and lapwing.

The introduction of lighting into this rural-edge area could potentially impact upon a wide range of species, in particular on bats and birds. There are likely to be bat populations using the adjacent ancient woodlands and the proposed development area may be an important commuting and foraging area. Proposals must include a lighting management plan to demonstrate how lighting will be avoided or otherwise minimised. It should cover at least the following points:

**Most importantly the need for lighting should be assessed, with a presumption against wherever possible. If lighting of walkways is needed for winter then low height and light level bollard lighting would be preferable. Bright security style type lighting would be of very serious concern in terms of impact on wildlife, particularly bats.**

**Lighting must be directed away from the hedgerows and woodlands, and light spill into these areas should be avoided through use of cowls or equivalent. In addition, the choice of lighting type is critically important, as there are wide variations in wildlife impact depending on the spectra of lighting. The choice of lighting type will impact on whether invertebrates are attracted to lights, with negative impacts on them, and also on the impact upon bats, birds and other wildlife. Conditions/covenants that control the type/power/direction of security/outside lighting that can be installed on houses are also suggested.**

For more details on this, see the recommendations of:

“A Review of the Impact of Artificial Lighting on Invertebrates, Charlotte Bruce-White and Matt Shardlow (2011)” [https://cdn.buglife.org.uk/2019/08/A-Review-of-the-Impact-of-Artificial-Light-on-Invertebrates-docx\\_0.pdf](https://cdn.buglife.org.uk/2019/08/A-Review-of-the-Impact-of-Artificial-Light-on-Invertebrates-docx_0.pdf) and

“Artificial Light in the Environment - Royal Commission on Environmental Pollution (2009)” [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228832/9780108508547.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228832/9780108508547.pdf)

and

Artificial Lighting and Wildlife, Bat Conservation Trust (2014) – downloadable from: [http://www.bats.org.uk/pages/bats\\_and\\_lighting.html](http://www.bats.org.uk/pages/bats_and_lighting.html)

**The impact of lighting, and measures to minimise this impact, must be included in the EIA.**

### **Achieving a net gain in biodiversity**

NPPF paragraph 8 states:

“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

.....

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, **improving biodiversity**, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon

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;

NPPF paragraph 180 states:

When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

.....

- d) .....opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

In addition, the NPPF planning guidance

(<http://planningguidance.planningportal.gov.uk/blog/guidance/natural-environment/biodiversity-ecosystems-and-green-infrastructure/>) clearly indicates that the NERC Act 2006 also provides a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity where possible. e.g.

*“Is there a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity where possible?”*

*Yes. Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its Biodiversity 2020 strategy.....*

*The National Planning Policy Framework is clear that pursuing sustainable development achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.”*

**Any application will need to demonstrate that a net gain in biodiversity is to be achieved. This will require both actions that will serve to mitigate any impacts on habitats and species, and enhancements.**

**We would emphasise that achieving a net gain will require compensation for all habitat loss, including arable and improved/semi-improved grassland. The principle for this has been established through the metric for biodiversity offsetting created by DEFRA. This clearly indicated (through the attribution of a distinctiveness score of 2 for arable and improved grassland, and 4 for semi-improved grassland and scrub), that all habitats (and therefore including those judged in an EIA of site value only) have ecological value. A net gain can only be achieved if the losses to all habitats are compensated for. This can only be realistically achieved on this site either by on-site creation of semi-natural habitat over a significant area of the site or by off-site compensation.**

**So, a net gain on this site as required by planning policy will only be possible by creation of significant amounts of species-rich wildlife habitat to compensate for impacts. We would expect the ecological report**

to detail significant habitat creation in order to compensate for the impact of the development on habitats and in order to achieve a net gain.

The most objective way of assessing if a net gain in biodiversity is achieved in a habitat context is the application of the habitat impact assessment metric created as part of the DEFRA Biodiversity Offsetting pilots (and already referred to above). Such metrics are used by many developers and their use has been upheld by the planning inspectorate as an appropriate mechanism for achieving the ecological aims of NPPF and is advocated in <http://planningguidance.planningportal.gov.uk/blog/guidance/natural-environment/> .

We would strongly recommend that Cherwell District Council request that this metric be used for this application.

If the metric is not used the developer must nevertheless clearly demonstrate that there is sufficient area of species-rich wildlife habitat creation to compensate for the loss of all existing habitat, including arable and improved grassland, in order to demonstrate a net gain in biodiversity.

There is also clear support in the NPPF for habitat creation to support the provision of ecological networks. The NPPF states in paragraph 179:

“To protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; **wildlife corridors and stepping stones that connect them**; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation and
- b) promote the conservation, restoration and enhancement of priority habitats, **ecological networks** and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

**We outline below habitat creation which, if implemented, could contribute towards:**

- a) allowing a net gain in biodiversity to be achieved with respect to habitats, as required by the NPPF
  - b) the creation of ecological networks as required by paragraph 179 of the NPPF;
  - c) greatly enhancing the development as a place to work, through provision of biodiversity rich green space which will:
    - allow for enjoyment of wildlife, for relaxation, and for exercise;
    - help to reduce the urban heat island effect and help with climate change adaptation;
    - help to reduce the severity of air pollution from vehicles.
1. **Significant provision of a biodiversity focussed area/nature reserve within the site with a variety of habitats such as species-rich grassland, orchard, wetland (including but not solely through ensuring that SUDS schemes are designed to achieve significant biodiversity benefits), woodland.**
  2. **Planting of species-rich grassland on grassed areas within the built development, and in roadside swales. This would also support the aspirations of DEFRA’s National Pollinator Strategy and supporting document**  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/370199/pb14\\_221-national-pollinator-strategy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370199/pb14_221-national-pollinator-strategy.pdf) and

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/370121/pb-14222-pollinator-strategy-supporting-doc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370121/pb-14222-pollinator-strategy-supporting-doc.pdf) ). This Strategy and supporting document make numerous references to how the planning process can support the provision of wildflowers to support pollinators.

3. Implementing a management plan to ensure the long-term conservation and enhancement for biodiversity of existing and created habitats.
4. Ensuring that the value of hedgerows for biodiversity is maximised by:
  - a) managing on a three-year rotation so that only one third of the hedgerow is cut every winter, preferably in January – February so as to maximise the availability of berries for wintering thrushes. Three-year rotational trimming is best done with a circular saw attachment for reshaping the hedge rather than with a flail. Some areas of hedgerow should also be allowed to develop into old growth hedgerow for longer periods and when cut back this should again be with a circular saw attachment.
  - b) gapping up as appropriate with an appropriate native species mix with high blackthorn and hawthorn content and a variety of additional species.

Proposals that include significant habitat creation and restoration, with long-term management, to ensure a net gain in biodiversity is achieved must be included as part of the ecological report.

#### **Biodiversity in built development**

Biodiversity enhancements within built development such as green or brown roofs (for example on garages/public buildings), creation of habitat for bats in buildings, bird boxes built into buildings, creation of hibernacula for reptiles and amphibians and habitats for invertebrates should be included in the development design in line with planning policy (NPPF) and the NERC Act, which places a duty on local authorities to enhance biodiversity.

Further details on some of the above are contained in:

Pages 28-29 of Biodiversity and Planning in Oxfordshire (<https://www.wildoxfordshire.org.uk/wp-content/uploads/2018/01/Biodiversityandplanning.pdf> )

Their provision is supported by policy as follows:

NPPF: “180. When determining planning applications, local planning authorities should apply the following principles....

d).... opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity

*should be encouraged;”*

**Suggested content for Biodiversity in Built Development** - all the below offer benefits for:

1. Wildlife
2. People through enjoyment of wildlife and open space, and consequent physical and mental health benefits and in many other ways.
3. Other benefits to people are defined by codes as follows: H = reduces urban heat island effect; AP = reduces air pollution; W = reduces water run-off

We would in particular note that commercial buildings are well placed to make extensive provision of green and brown rooves and this development should make extensive provision of these in order to achieve an on-site net gain in biodiversity. Numerous other developments are providing these routinely now and we would point to the Pinewood Film Studios expansion in South Bucks as a particular example with almost all the new buildings having green roof provision.

#### **Buildings and workplace gardens:**

**Green rooves and brown rooves – H, AP, W.**

**Green walls – H, AP, W**

**Workplace gardens: Fruit trees; Wildflower meadows; Log piles; hedgerows making up at least one boundary; garden walls with overwintering shelter for insects – H, AP, W**

**Built in bird boxes including swift bricks, swallow and house martin and garden birds.**

**Built in bat boxes, bricks and lofts – suitable for crevice dwellers and roof void dwellers.**

#### **Road network and small green spaces:**

**Street trees – tree lined streets; woodland copses. H, AP, W**

**Wildflower rich road verges and green corners etc. with loggeries, hibernacula, bug hotels H, W**

**Climbing plants on fences and walls H, AP, W**

**Any shrubs chosen to maximise: berries for winter bird food; flowers for pollen and nectar.**

**SUDS schemes including biodiversity H, AP, W**

#### **Green Spaces:**

**In addition to large scale habitat creation and management, as described above:**

**Wildflower edging / shrubs around sports pitches, play equipment, kick-about areas. H, W**

**Hedgerows and buffers: management for wildlife H, AP, W**

**Long grass / bare ground / rockeries / hibernacula for reptiles H, W**

**Clean-water wetlands / ponds / ditches with surrounding wildlife grass habitat for amphibians – can be part of SUDS and independent of SUDS. H, W**

**Woodland H, AP, W**

**Network of green and blue corridors without lighting H, AP, W**

#### **Scope of Surveys**

**The selection of appropriate surveys should be informed by a desk-top survey, including a request for existing records from the Thames Valley Environmental Centre (TVERC), and other local groups who may hold existing information (BBOWT submits all its records to TVERC). The phase 1 habitat survey should also inform the need for further survey work.**



**However, the scope of surveys should not only include features receiving statutory protection, but should also pick up on species and habitats listed by the Secretary of State as being of principal importance under section 41 of the NERC Act 2006.**

**Species surveys should be designed to identify priority species (or species of principal importance) using the site, in addition to protected species.** The need to conserve species and habitats of principal importance is stated in paragraph 117 of the NPPF as follows:

*“promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets”*

**A full suite of surveys as appropriate should be carried out depending on the results from Phase 1 surveys. The area may carry a range of typical farmland bird species, many of which are Amber or Red listed Birds of Conservation Concern, and/or Species of Principal Importance. Breeding bird surveys should be carried out across the entire site.**

**Timing of surveys:** it is important that all potential biodiversity impacts and enhancement opportunities are informed by full survey information. Surveys should be undertaken at the optimal time of year for each species using the best practice methodology. It would be particularly useful for surveys to identify any existing wildlife corridors connecting to features within the wider countryside, for example watercourses, ditches, hedgerows and railway embankments so that these can be considered in the design of the restoration and aftercare schemes.

**The outcomes of the ecological surveys should then be used to inform and develop appropriate mitigation and enhancements (see above). Any application should be accompanied by a Mitigation and Enhancement Plan, and a long-term Biodiversity Management Plan.**

**We request that the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) be consulted on subsequent applications on the site further to this Scoping Opinion request.**

Please contact us if you have any queries on this response.

Yours sincerely,

Nicky Warden

Public Affairs and Planning Officer