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Planning and Development  
Cherwell District Council  
Bodicote House  
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Oxfordshire

**FAO**

Caroline Ford  
Email: [caroline.ford@cherwell-dc.gov.uk](mailto:caroline.ford@cherwell-dc.gov.uk)

**By email only**

29<sup>th</sup> September 2023

Dear Caroline,

21/04275/OUT

Lords Lane, Bicester

OUTLINE - with all matters reserved except for Access - Mixed Use Development of up to 3,100 dwellings etc.....

**Objection: Lack of compensation for impacts on UK priority farmland bird species, contrary to the NW Bicester SPD, and paragraphs 179 and 180 of the NPPF**

In relation to the above application we have the following comments on behalf of the Berks, Bucks and Oxon Wildlife Trust (BBOWT). 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.

Please note that our response deals mainly with only one issue, as we have not assessed other aspects of the development. The absence of comment on any other biodiversity issue should not be taken as meaning an absence of concern, just that we have not assessed other aspects. For other biodiversity matters please refer to the responses of the Cherwell District Council ecologist, and Bioregional.

**Off-site farmland bird compensation**

We are greatly concerned that we cannot see evidence of the developer offering the proportionate contribution for off-site farmland bird compensation, as required by the NW Bicester SPD (February 2016), and the NW Bicester Masterplan.



The provision of this contribution has been a cornerstone of mitigating an impact on farmland birds across the entire NW Bicester Masterplan area to compensate for what would otherwise be a severe and wholly unacceptable impact on large populations of UK priority farmland bird species. The need for it, and the methodology for, the contribution was agreed with some considerable input of time on the part of numerous parties, as part of the masterplanning process and the SPD process, and numerous applications have already made or agreed to make the contribution.

**This application should be making the full proportionate contribution by area of development towards the standard required sum per hectare for off-site compensation for the NW Bicester Eco Town so that it contributes to compensation for the loss of breeding territories for linnet, skylark, yellowhammer, grey partridge, yellow wagtail and other farmland bird species as detailed in the NW Bicester Masterplan.**

The Cherwell District Council ecologist wrote in their response of 29<sup>th</sup> March 2022 the following, which we support:

*“Under the NW Bicester SPD (9e) it states ‘As it is not possible to mitigate for the Impact of farmland birds on the site, off site mitigation measures should be provided and all applications within the masterplan area should contribute to the provision of off-site mitigation’. The Environmental statement acknowledges that there is no way to compensate for loss to farmland birds through design however it does not mention its contribution to the overall off site scheme for farmland birds. This should be made clear as the agreed choice for compensating for the loss to these species.”*

The Bioregional response stated, which we also support: *“In addition no reference is made on the off-site mitigation for farmland bird loss. This is part of the NWB SPD whereby off-site mitigation measures should be provided.”*

We note that in an email of 12<sup>th</sup> August 2022 a representative of the developer wrote:

*“Our consultant would also welcome direct discussions with Dr Watkins or a colleague on the matter of the off site scheme for farmland birds so this matter can be satisfactorily addressed.”*

We of course hope that our response is completely unnecessary and that the contribution has now been offered and that it simply has not yet been indicated on the website. If this is the case then we would ask that documentation is provided on the website as soon as possible to indicate that the full contribution is confirmed.

This proposed development forms part of an overall NW Bicester Eco Town Masterplan which is supported by two key documents relevant to biodiversity: the NW Bicester SPD (February 2016), and the ‘NW Bicester Masterplan: GI and Landscape Strategy’. These documents have been used to assess the overall impact of the NW Bicester development and to describe the necessary measures to ensure that adverse biodiversity impact is avoided, mitigated or compensated, and that a net gain in biodiversity is achieved. It is very disappointing that this

application appears to have been brought forward without apparently adhering as yet to the requirements made in these documents in terms of off-site compensation for priority farmland bird species.

The North West Bicester SPD (February 2016) states: *“4.227 Biodiversity mitigation and enhancement shall be incorporated into development proposals to provide a net biodiversity gain. As it is not possible to mitigate for the impact of farmland birds on the site, off site mitigation measures should be provided and all applications within the masterplan area should contribute to the provision of off-site mitigation.”*

The ‘NW Bicester Masterplan: Masterplan GI and Landscape Strategy (March 2014)’ includes the following statements: *“The development will lead to the loss of arable land and grassland fields that support farmland specialist bird species. Domestic pets associated with new residents may also lead to an increase in predation affecting ground-nesting birds using the adjacent farmland. This will be mitigated through:..... Offsite habitat compensation to enhance local habitats for farmland birds through appropriate, proven management regimes to increase the carrying capacity of local habitats”*

The NPPF states:

*“179. To protect and enhance biodiversity and geodiversity, plans should:.....b) promote the..... protection and recovery of priority species;.....*

*180. 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;”*

The reasonableness of the contribution has been further confirmed by it being supported in the Appeal Decision for *“APP/C3105/W/16/3163551 Land off Howes Lane and Middleton Stoney Road, Bicester, Oxfordshire”*:

*“71. Paragraph 6.4.30 of the submitted Environmental Statement confirms that the breeding and wintering bird assemblages at the site are considered to be of local ecological importance. Local Plan policy Bicester 1 requires a net gain in biodiversity as a result of the development. The Strategic Environmental Report for the North-West Bicester Ecotown acknowledges that the loss of farmland used by foraging and nesting birds cannot be mitigated on site and proposes a scheme of off-site mitigation by increasing the “carrying capacity” of other local habitat. This is clearly necessary in order to contribute to the achievement of the policy. The two Biodiversity contributions proposed in Schedule 9 of the Unilateral Undertaking are a proportionate contribution to this scheme and so comply with the CIL regulations.”*

At 177 hectares, this would appear likely to be the largest application site in the whole NW Bicester Masterplan site of about 400 hectares, making the contribution of vital importance to the overall mitigation package for farmland birds over the full NW Bicester area.

We noticed the following paragraph in the Ecology Chapter of the ES:

*“9.6.19 GI will include areas of undisturbed species-rich grassland using a suitable seed mix for foraging birds to mitigate the loss of arable land as alternative foraging opportunities for the notable farmland specialists skylark, yellow wagtail, linnet, yellowhammer, kestrel, grey partridge and meadow pipit, managed to favour these species through timing of cutting to and without the use of pesticides/fertilisers to ensure seed availability for foraging.”*

We would point out, with our underlining, what is said in the SPD: “4.227..... As it is *not possible* to mitigate for the Impact of farmland birds on the site,...”, and in the above appeal decision: “*The Strategic Environmental Report for the North-West Bicester Ecotown acknowledges that the loss of farmland used by foraging and nesting birds cannot be mitigated on site.*”

Whilst the provision of on-site GI is of course important more generally for biodiversity we do not consider it can compensate for the impact on the UK priority farmland bird species, the vast majority of which avoid the urban and semi-urban environment as they need open habitats for foraging, and undisturbed areas for breeding. The work for the Eco Town concluded that the impact on farmland birds could not be mitigated within the Eco Town and that therefore offsite compensation was necessary.

Whilst we have not seen the following argument specifically made, and nor do we know whether it is the case, we would not consider it to be relevant if the case was made that there were fewer UK priority farmland birds recorded on the site in recent surveys on the site than originally recorded in the 2010 Breeding Bird Survey Report for the whole NW Bicester site. Nor would we consider it to be relevant if there were fewer UK priority farmland birds recorded on the site than in other parts of the whole NW Bicester Eco Town area. The SPD paragraph 4.227 in 9(e) was about each developer making a proportionate contribution to the entire impact in a fair way, irrespective of exactly how many birds happened to be on their land in any particular year. But if it was to be relevant we would point out the following:

- 1) The recent surveys commissioned by the applicant have recorded numerous confirmed or probable breeding UK priority farmland bird species on the application site including grey partridge, skylark, linnet, yellowhammer and yellow wagtail;
- 2) If there were fewer breeding pairs recorded than originally reported in the surveys for the 2010 report for the whole NW Bicester masterplan site (we do not know if this is the case), then this could have occurred as a result of the impact from the beginning of construction work on other parts of the NW Bicester site. It is well known that the types of farmland birds that the mitigation scheme was first set up for are intolerant of urban development – this was the reason that a contribution to an offsite mitigation scheme was identified as required, as opposed to on-site mitigation.

**As it stands this application is contrary to the NW Bicester SPD, the NW Bicester Masterplan, and the NPPF (paragraphs 179 and 180) on the grounds of uncompensated adverse impact on UK priority farmland bird species. The applicant must commit to a full proportionate contribution by area to the expected off-site compensation for UK**

priority farmland bird species for the whole NW Bicester Masterplan area, prior to the determination of this application.

### **Biodiversity Strategy**

The NW Bicester SPD states:

*“4.229 A biodiversity strategy which is part of an approved biodiversity strategy for the whole masterplan area, shall accompany all planning applications.”*

We could not find such a Biodiversity Strategy in the documentation and consider it should be submitted prior to the determination of this application. This matter relates to the above one since as we understand it the approved Biodiversity Strategy for the whole masterplan area included content relating to off-site farmland bird compensation.

We hope that these comments are useful. Should you wish to discuss further any of the matters raised, please do not hesitate to contact us.

Yours sincerely,

Neil Rowntree

Neil Rowntree  
Senior Biodiversity and Planning Officer (Oxfordshire)  
Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust

**Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust**  
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