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Cherwell District Council

By email only

Dear Sir/Madam

11th May 2022

Application No: 22/01135/SO

Screening Opinion - Request for Environmental Impact Assessment Screening Opinion under Regulation 6(1) of The Planning (Environmental Impact Assessment) Regulations 2017. It is proposed to develop the site for up to 150 dwellings, together with new points of vehicular access, SuDS, green infrastructure, biodiversity enhancements and public open space. It is envisaged that an outline planning application will initially be submitted in Q2 2022, with future reserved matters submissions to follow.

In relation to the above screening 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 are not offering an opinion as to whether an EIA is required, please refer to your in-house ecologist on this issue. We would like to draw your attention to the following matters which we consider should be addressed in either an Environmental Impact Assessment (EIA) or an ecological impact assessment (EcIA).

Impacts of proposed development on designated sites of importance for wildlife

Cumulative Impacts

The EIA/EcIA 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, mitigate or compensate for these negative impacts should be specified within the EIA/EcIA.

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. To get the best benefits for wildlife from retained and created hedgerows then a management regime favourable for wildlife should be put in place for hedgerows across the site including a three-year rotation for trimming, so that any one section is only trimmed every three years and allowing some stretches of hedgerow to remain untrimmed for longer. Such a management regime will benefit berry-eating birds, nesting birds, and invertebrates, amongst other wildlife.

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 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.

Since the site is primarily farmed arable land it is highly likely that amber and red listed farmland species will be present and breeding. It is therefore essential that both breeding and wintering bird surveys are carried out.

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/ EcIA 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/EcIA.

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, birds and insects. 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 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

and

Artificial Lighting and Wildlife, Bat Conservation Trust (2014) – downloadable from: 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 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.

The Cherwell Local Plan 2011 – 2031 Part 1 Adopted 20 July 2011 Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment states:

*“In considering proposals for development, **a net gain in biodiversity will be sought** by protecting, managing, enhancing and extending existing resources, and by creating new resources.”*

In addition, Cherwell's Community Nature Plan 2020–2022 A natural environment for people and wildlife includes a target to "Seek a minimum of 10% net gain in biodiversity when considering proposals for development" (p15)

Any application will therefore need to demonstrate that a minimum 10% net gain in biodiversity will be achieved. This will require both actions that will serve to mitigate any impacts on habitats and species, and enhancements.

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 EIA/EcIA 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 biodiversity net gain should be calculated using the latest biodiversity accounting metric published by Natural England and all calculations should be provided with the documentation available to consultees as part of any planning application.

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 and Cherwell Local Plan
 - b) the creation of ecological networks as required by paragraph 179 of the NPPF;
 - c) greatly enhancing the development as a place to live, 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 and 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 EIA/EcIA.

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

Buildings and community gardens:

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

Green walls – H, AP, W

Community 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. As stated above, the area is likely to 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 and wintering 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 Screening Opinion request.

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

Yours sincerely,

Nicky Warden

Public Affairs and Planning Officer