The Lodge
1 Armstrong Road
Littlemore
Oxford OX4 4XT

Cherwell District Council

By email only

26 May 2022

Dear Sir/Madam

22/01144/F

OS Parcel 5700 South West of Grange Farm Street Through Little Chesterton

Full planning application for the erection of a new high quality combined research, development and production facility comprising of Class B2 floorspace and ancillary office floorspace with associated infrastructure including: formation of signal-controlled vehicular access to the A41 and repositioning of existing bus stops; ancillary workshops; staff gym and canteen; security gate house; a building for use as an energy centre (details of the energy generation reserved for future approval); loading bays; service yard; waste management area; external plant; vehicle parking; landscaping including permanent landscaped mounds; sustainable drainage details; together with the demolition of existing agricultural buildings within the red line boundary; and the realignment of an existing watercourse.

As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology on and around the application site If the planning authority is minded to approve this application we would ask that the following issues are taken into consideration:

1. **Application does not provide evidence of an adequate net gain in biodiversity**
2. **The importance of a net gain in biodiversity being in perpetuity**
3. **Management of hedgerows in order to achieve biodiversity net gain**
4. **The importance of avoiding impact on UK priority species including breeding and wintering birds**
5. **Impact on Bowles Copse Cherwell District Wildlife Site**

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1. **Application does not provide evidence of an adequate net gain in biodiversity**

Our response below draws on the following planning policy and we have underlined the aspects most relevant to our response. Cherwell Local Plan, 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" …*

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In addition, p15 of CDC's Community Nature Plan 2020–2022 A natural environment for people and wildlife refers to a target to:

> "*Seek a minimum of 10% net gain in biodiversity when considering proposals for development."*

A Biodiversity Net Gain metric spreadsheet has also been provided at ES Appendix 08.2 to illustrate the potential net gain resulting from this application. This shows a net gain of 4.10% habitat units and 6.71% hedgerow units. Neither of these figures is sufficient since a 10% net gain is required by the Community Nature Plan quoted above and neither figure will provide an adequate buffer to guarantee against an overall net loss in biodiversity.

If the planning authority is minded to approve the application and it is not possible to achieve 10% net gain on site then off-site compensation will be required. TOE https://www.trustforoxfordshire.org.uk is an independent charity with strong relationships with local planning authorities, developers and landowners across the county which may be able to assist the applicant in meeting its net gain obligations.

We welcome the submission of the metric spreadsheets to allow consultees to assess the scoring in detail. There are a number of aspects which concern us in the scoring, in relation to:

a) Creation of Other Neutral Grassland – Good condition.

The metric provides five possible condition scores for created habitat, listed here, with their scores afterwards – Poor (1); Fairly Poor (1.5); Moderate (2); Fairly Good (2.5) and Good (3). To select the very highest of those scores, which will provide the most units on the metric, needs a very high level of confidence that the starting point, the creation techniques, and the management techniques will all combine to allow the creation of such high-quality grassland. Factors such as invasive species, recreational impact and nutrient input can also be relevant. It is common for a precautionary approach to be taken, for example by using a Condition score of Moderate (2) or at the most Fairly Good (2.5). To justify a score of Good (3), or of Fairly Good (2.5), we would ask for much more detail on the above issues to be provided than is currently available, and for that detail to be consulted on. Otherwise we would suggest a precautionary score of Moderate (2) is used instead.

We have noted the following text in the metric spreadsheet:

> "*Species rich meadow grass; Tussock grass mixture. Condition score based on the fact that the habitat will need to be managed for reptiles therefore robust management will be needed to ensure management to create a variety of sward heights, a diversity of forb and grass species and management to previous undesirable species, requiring an ecologically sensitive management regime..."*

We consider that much more detail is needed on the matters raised above (the starting point, the creation techniques, and the management techniques) than that which is provided by this statement.

b) Creation of Mixed scrub – Good condition

As above, the highest score has been selected without any detail about management techniques being provided. We would ask for much more detail on the above issues to be provided than is currently available, and for that detail to be consulted on. Otherwise we would suggest a precautionary score of Moderate (2) is used instead.

We have noted the following text in the metric spreadsheet:

> *"Native Feathered tree and shrub mix; Native swathe planting, Native shrub mix. Condition score based on the fact that the habitat will need to be managed for black and brown hairstreak therefore robust management will be needed including provision of young scrub for the butterfly species, requiring an ecologically sensitive management regime."*

We consider that much more detail is needed on the matters raised above (the starting point, the creation techniques, and the management techniques) than that which is provided by this statement.

c) Habitat enhancement:
   - Modified grassland to Other neutral grassland (Condition change Lower Distinctiveness Habitat - Moderate)

We have noted the following text in the metric spreadsheet:

> *"Modified grassland (improved) enhanced to better quality 'modified grassland' with use of wetland meadow grass mixture around attenuation ponds. Condition as moderate as likely to meet criteria except that of displaying characteristics of Priority Habitat"*

We consider that much more detail is needed on the matters raised above (the starting point, the creation techniques, and the management techniques) than that which is provided by this statement.

d) Habitat enhancement:

   - Other neutral grassland (Condition change Moderate - Good)

We have noted the following text in the metric spreadsheet:

> *"Semi-improved grassland and improved grassland enhanced to 'other neutral grassland' with use of species rich meadow grass mixture. Condition score based on the fact that the habitat will need to be managed for reptiles therefore robust management will be needed to ensure management to create a variety of sward heights, a diversity of forb and grass species and management to previous undesirable species, requiring an ecologically sensitive management regime."*

We consider that much more detail is needed on the matters raised above (the starting point, the creation techniques, and the management techniques) than that which is provided by this statement.

We note that paragraph 8.6.8 of the applicant's Ecological Statement states:

> "*A Landscape and Ecological Management Plan (LEMP) will be prepared. This will set out in the detail the measures to be implemented to ensure the successful establishment/installation of new habitats/features and the long-term maintenance and management of both existing and new habitats/features proposed as part of the soft landscape scheme."*

We consider that the LEMP should be submitted at this stage and consulted on in order to allow the consideration of the measures which will secure the success of the applicant's biodiversity metric.

2. The importance of a net gain in biodiversity being in perpetuity

Once built, if approved, the development can be reasonably assumed to be there for ever, since even when the buildings are replaced it would be likely to be replaced by other forms of development.

Therefore, the wildlife habitat will be lost for ever and any compensation must be provided for ever. Otherwise the result is to simply defer a significant loss of biodiversity that should not be occurring either now or in 30 years' time.

The most effective method to ensure that any compensation is provided for ever would be for the land identified for on site or off-site habitat creation and enhancement to be managed for wildlife in perpetuity with money provided by an endowment fund. Such an endowment fund is already commonly used within the Milton Keynes area when agreements are made involving the Parks Trust taking on land.

In perpetuity is considered to be at least 125 years in accordance with legislation which defines the 'in perpetuity' period (Perpetuities and Accumulations Act 2009). This legislation was used to define in perpetuity in this extract from the Thames Basin Heaths SPA. Para 3.1.5 Thames Basin Heaths Special Protection Area Supplementary Planning Document which states:

> "*The avoidance and mitigation measures should be provided in order that they can function in perpetuity which is considered to be at least 125 years. An 'in perpetuity' period of 125 years has been applied in this SPD in accordance with the legislation which defines the 'in perpetuity' period (Perpetuities and Accumulations Act 2009.*

On-site or off-site compensation that involves only a 30-year agreement with no guarantee of the long-term security in perpetuity of the wildlife habitat created would not be appropriate. The loss of wildlife habitat on the site will be permanent so the compensation must be permanent.

3. Management of hedgerows in order to achieve biodiversity net gain

If the application is approved then new and retained hedgerows will need to be carefully managed in order to achieve the necessary biodiversity net gain. In general, a rotational cutting regime on a three-year cycle wherever possible (or a two-year cycle where particular reasons justify it) will be of most value to biodiversity. This is for many reasons including allowing the formation of fruit which is a vital winter food source for birds, and allowing butterfly and other invertebrate eggs laid on branches to overwinter. This is an important issue as annual cutting would have a severely detrimental impact on the biodiversity value of the hedgerows.

Rare black and brown hairstreak butterflies are very important in the local area and should be considered in the management of the hedgerows. Newly planted hedgerows should include a significant component of blackthorn, the food plant of both black and brown hairstreaks.

Retained hedgerows should be protected by a buffer zone of minimum 10m either side of the hedgerow. Buffers should be primarily diverse grassland areas alongside the hedgerows so that they are suitable for invertebrates. There should be no built environment and minimal lighting within the buffer zone.

4. The importance of avoiding impact on UK priority species including breeding and wintering birds

The presence of priority species wintering birds on the site is noted at paragraph 3.20 of the applicant's ES Appendix 08.1:

> "…. *The species recorded within the Site included the following species that are on the Red List of Birds of Conservation Concern9 (BoCC): starling (also a Priority Species), yellowhammer (also a Priority Species), redwing (also a WCA Schedule 1 species), and stock dove. The Priority Species bullfinch and dunnock (Prunella modularis) were also recorded within the Site…."*

In addition, the presence of priority species breeding birds on the site is noted in the applicant's ES Appendix 08.1:

> *4.22 "Three breeding bird surveys were undertaken within the Site in 2018, with an additional breeding bird survey carried out in 2021. These surveys recorded an assemblage of birds typical of the agricultural and urban fringe environment present within the Site."*
>
> 3.27 "*Of the species considered to be of conservation concern, four species were considered to be possibly breeding within the Site: skylark, linnet, song thrush, and dunnock"*

The importance of avoiding impact on the UK priority species is backed up by planning policy e.g. the NPPF states:

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

Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment of the Cherwell Local plan states:

> "*Development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance including habitats or species of principal importance for biodiversity will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity*"

DEFRA have 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 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." ……*
>
> *consider bird populations when consulting on or granting consents, such as planning permissions, environmental permits, development or environmental consents, and other consents."*

This application currently does not provide sufficient evidence that it will "*provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live*" in relation both to "*wild birds in decline"* and to "*wild birds with healthier populations"*

If the application is approved and it is not possible to provide habitat for farmland birds on site then off-site compensation should provide this. Please see above.

5. **Impact on Bowlers Copse Cherwell District Wildlife Site**

Paragraph 8.5.4 of the applicant's Environmental Statement acknowledges an impact on Bowlers Copse Cherwell District Wildlife Site during the construction phase:

> *"Wetland habitats within Bowlers Copse CDWS are judged to be at risk of downstream hydrological impacts, via adverse changes in water quality and/or flow caused by construction work within or near the watercourses onsite, in particular the proposed realignment of the wet ditch running west-east across the southern portion of the Site."*

In addition, paragraph 8.5.30 acknowledges an impact on Bowlers Copse CDWS during the operational phase:

> *ES 8.5.30 Wetland habitats within Bowlers Copse CDWS are judged to be at risk of downstream hydrological impacts, via adverse changes in water quality and/or flow within the Site during operation of the Proposed Development.*

The importance of avoiding damage to a local wildlife site is backed up by planning policy. Cherwell Local Plan Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment states:

> *"Development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance including habitats of species of principal importance for biodiversity will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity"*

If the application is approved, the impact on Bowlers Copse CDWS should be considered and mitigation provided in order to achieve a net gain in biodiversity. If it is not possible to mitigate for this impact on site then off-site compensation should provide this. Please see above.

We note that paragraph 8.5.33 of the applicant's Environmental Statement states;

> *"The proposed surface water drainage system, will include the use of SuDS features, catch pits, and trapped gullies, the details of which will be subject to further approval via discharge of planning condition, prior to water being discharged to the downstream catchment"*

We consider that the detail of these SuDs features should be submitted at this stage and consulted on in order to allow consideration of the measures which will ensure that there is no impact on Bowlers Copse CDWS. Any management programme should ensure maintenance of the SuDs scheme (including replacement of the scheme if necessary) for as long as the development is in place in order to ensure that there is no impact on Bowlers Copse CDWS in the future.

Lighting

We note that paragraph 8.6.3 of the applicant's Environmental Statement states:

> *"Street lighting – to be designed to avoid impacts on nocturnal wildlife where in close proximity to retained habitats. This detail is not provided as part of the planning application but can be secured through a suitably worded planning condition;"*

We consider that a detailed lighting strategy should be provided at this stage so that the potential impact of lighting on nocturnal wildlife can be assessed and commented on.

Green rooves

We note that "*It is proposed that 18 % of the roof will be covered with solar PV Cells*" (Planning Statement paragraph 6.54).

In the event that this application is approved we would suggest that that developers should be required to maximise the provision of either green rooves or PV cells on any remaining roof space. Research shows that green rooves can provide valuable habitats for wildlife https://livingroofs.org/biodiversity-and-wildlife/). According to www.livingroofs.org, a good green roof designed for biodiversity should include a varied substrate depth planted with a wide range of wildflowers suitable for dry meadows. The inclusion of buildings with green rooves would be another means of increasing biodiversity within the proposed development.

We hope that these comments are useful. Please do not hesitate to get in touch should you wish to discuss any of the matters raised.

Yours sincerely

Nicky Warden

Public Affairs and Planning Officer

Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust