

Cherwell District Council

By email only

18th August 2022

Berkshire, Buckinghamshire &
Oxfordshire Wildlife Trust
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Dear Sir/Madam



Application no: 22/02101/OUT

Location: Land Adjoining Withycombe Farmhouse Stratford Road A422 Drayton

Proposal: Outline planning application for a residential development comprising up to 250 dwellings (with up to 30% affordable housing), public open space, landscaping and associated supporting infrastructure. Means of vehicular access to be determined via Edinburgh Way, with additional pedestrian and cycle connections via Dover Avenue and Balmoral Avenue. Emergency access provision also via Balmoral Avenue. All other matters reserved

Objection, in relation to the following issues:

- 1. Application does not provide adequate evidence of a net gain in biodiversity**
- 2. The importance of the main wildlife habitats being managed for nature conservation in perpetuity**
- 3. Lighting**

Thank you for consulting us on the above application. As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology on and around the application site.

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

Our response below draws on the following planning policy and we have underlined the aspects most relevant to our response. National Planning Policy Framework (NPPF), 2021, 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;"

The Environment Act 2021 will make a 10% net gain in biodiversity mandatory in 2023, however local planning policy already requires a 10% net gain in biodiversity as illustrated below:

The Cherwell Local Plan, Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment state:

... “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” ...

And in addition, p15 of Cherwell District Council’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 been provided at Appendix 6 of the applicant’s Ecological Assessment (EA) to illustrate the potential net gain resulting from this application. This is an increase in habitat units from 27.51 units to 38.89 units (which equates to a 41.37% increase) and an increase in hedgerow units from 12.31 units to 18.49 units (which equates to a 50.23% increase).

We welcome the submission of the metric spreadsheets to allow consultees to assess the scoring in detail. However, we consider more information is required in relation to the scoring for “*Creation of Other Neutral Grassland – Moderate*” which makes up a large proportion of the increase in habitat units.

Whilst we welcome the aspiration to create nearly four hectares of Other Neutral Grassland in Moderate condition, we consider much more detail is needed on how the habitat will be both created and managed so that the local authority, and ourselves, can be sure that it is achievable in the timescale indicated (5 years) and can be maintained thereafter. This detail should include the submission of a habitat creation and management plan for all the main wildlife habitats, including the other neutral grassland, scrub, woodland and SuDS features and for that, and any other detail, to be consulted on.

We do note that Para 5.2. 8 of the applicant’s EA states:

...” loss of arable land and grassland margins ... are offset by the creation of new species-rich grassland within areas of open space, which will be sown with a native, species-rich seed mixture (such as Emorsgate’s Standard General Purpose Meadow Mixture EM2) and subject to a suitable management regime, to increase the floristic diversity of the site accordingly.”

and at paragraph 5.2.10:

“The grassland surrounding attenuation features will be sown with a native wildflower grassland seed mixture (such as Emorsgate’s Tussock Mixture EM10 / or Emorsgate’s Meadow Mixture for Wetlands EM8), and will be subject to a suitable management regime.”

However, it is our view that considerably more detail is needed than this, particularly with regards to management, to ensure the proposed habitats can be achieved and in the condition specified. As it stands we have concerns that what is proposed may not be attainable and therefore the minimum

10% net gain in biodiversity would not be realised at the site, contradicting the national and local legislation and policy stated above.

We consider that the main newly created wildlife habitats, such as the other neutral grassland, scrub and woodland will need to be carefully managed as if they were a nature reserve for wildlife (indeed we would recommend that at least some of these areas are labelled in such a way), in order to achieve the necessary biodiversity net gain and that factors such as invasive species, recreational impact and nutrient input could all be relevant and would need to be considered. For this reason, we consider that a great deal more information in relation to habitat management is needed. We consider that the applicant should produce a detailed Habitat Creation and Management Plan at this stage of the planning process (rather than conditioned and produced at a later stage), so that it can be analysed and commented on. The plan should include an explanation of how access will be managed on the areas that will be intended to be of high wildlife value, such as the other neutral grassland, grassland and scrub.

2. The importance of the main wildlife habitats being managed for nature conservation in perpetuity.

We consider it is important that the application includes proposals to secure the main wildlife habitats for nature conservation 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 direct and indirect impact of the development will be there 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.

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 Para 3.1.5 of the 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).

The most effective method to ensure that any compensation is provided for ever would be for the land identified for on-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. Alternatively, a community interest group might be created to manage the nature conservation area for wildlife in perpetuity.

3. Lighting

The introduction of lighting into this rural-edge area could potentially impact upon a wide range of species, in particular on bats and birds. As noted at paragraph 5.3.28. of the applicant's EA,

"The hedgerows and trees within the site offer suitable foraging and dispersal/navigational opportunities for bats."

We note the recommendations made at paragraph 5.3.30 of the applicant's EA but would suggest that the wording "if deemed necessary", "could be used" and "could be achieved" be rephrased in order to describe what will happen in a form that can be conditioned.

We note that the applicant's Detailed Lighting Scheme Principles document states that "*a detailed lighting scheme will be prepared to support the any future Reserved Matters application*", however we consider that a lighting strategy, including a section on lighting and biodiversity, should be provided at this stage of the planning process, and include all the points indicated in section 5.3.30, but worded so as to indicate what will happen, rather than offering advice such as what "could be" achieved.

For the reasons described above, it is our opinion that this application should not be approved in its current form. 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