

Cherwell District Council

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**By email only**

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1<sup>st</sup> November 2023

Dear Mr Wentworth

**Application number: 22/03063/F**

**Location: Land East Of Larsen Road Heyford Park**

**Proposal: Erection of 126 dwellings with access from Camp Road, provision of public open space and associated infrastructure.**

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

We note that a Biodiversity Metrics Report has been submitted by the applicant. This shows at paragraph 7.2.1 that:

*“Overall, the development will result in a loss of 22.40 habitat units (-81.94%) .... The current plans do not satisfy the trading rules regarding habitats, as there is insufficient medium distinctiveness habitats to offset what has been lost.”*

The report concludes at paragraph 7.2.4 that:

*“.... this development will need to provide off-site habitat creation to obtain the required units and to satisfy the trading rules. Table 7-2 indicates that an additional 25.14 habitat units will need to be delivered to achieve 10% net gain.”*

However, as no details have been given as to how this net gain is to be provided we remain concerned that the application does not provide evidence of a net gain in biodiversity. We have not found any additional information which addresses our other concerns in relation to this application and we therefore stand by the objections set out in our original application dated 16<sup>th</sup> November 2022 which is appended to this letter.



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

Appendix: BBOWT response to Land East of Larsen Road Heyford Park

Cherwell District Council

**By email only**

16<sup>th</sup> November 2022

Dear Sir/Madam

**Application number: 22/03063/F**

**Location: Land East Of Larsen Road Heyford Park**

**Proposal: Erection of 126 dwellings with access from Camp Road, provision of public open space and associated infrastructure.**

**Objection:**

- 1. Application does not provide evidence of a net gain in biodiversity**
- 2. The importance of a net gain in biodiversity being in perpetuity**
- 3. Loss of or damage to hedgerow priority habitat**
- 4. Buffer zones and management of hedgerows in order to achieve biodiversity net gain**
- 5. Application does not provide evidence that it will help to achieve the aims of the Conservation Target Area**
- 6. Great Crested Newt district licence**
- 7. Cumulative effect in the context of large infrastructure proposals for the area**

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 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) 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.”*

We have been unable to find a Biodiversity Net Gain metric spreadsheet with this application so we have not been able to consider whether or not the application will provide a 10% Biodiversity net gain as required by national local planning policy. A BNG calculation should be submitted for analysis and comment before this application is decided. This is of particular concern because the applicant’s Ecological Addendum paragraph 2.3.1 describes semi-improved grassland with a range of wildflower species which are potentially indicative of Other Neutral Grassland. We therefore consider it essential that a full justification for distinctiveness and condition scoring for both the baseline and post-development is submitted and provided for analysis and comment before this application is decided.

## **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.

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.

### **3. Loss of or damage to hedgerow priority habitat contrary to the NPPF and Cherwell Local Plan**

We note that the development design has considered the existing hedgerows and retains a significant proportion of them. There is also new hedgerow along the west of the site. However, we are concerned about the apparent loss of some of the hedgerow (particularly along the southern edge of the site) and the impact on species dependent on the retained hedgerows.

Hedgerows are listed in Section 41 of the NERC Act 2006 as a priority habitat.

In addition, the NPPF states:

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

*..... b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; ....”*

Policy ESD 10 Protection and Enhancement of Biodiversity and the Natural Environment of the adopted 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 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*
- *Development proposals will be expected to incorporate features to encourage biodiversity, and retain and where possible enhance existing features of nature conservation value within the site. Existing ecological networks should be identified and maintained to avoid habitat fragmentation, and ecological corridors should form an essential component of green infrastructure provision in association with new development to ensure habitat connectivity*

We are concerned that newly created hedgerow will not compensate for impact on the retained hedgerow.

### **4. Buffer zones and management of hedgerows in order to achieve biodiversity net gain**

If the application is approved then retained hedgerows should be protected and enriched by creating buffer zones or buffers of semi natural vegetation. Buffers zones should feature:

- Minimum 10 m wide buffer zone each side of the hedgerow
- Dark corridors along the hedgerows so that both the hedgerow and the 10m buffer is protected from light
- Buffer zones should be primarily diverse grassland area alongside hedgerows so that they are suitable for invertebrates
- No built development within the buffer zone

- Positive ecological and landscape management techniques to ensure value to key species
- SuDS features such as swales and attenuation ponds
- Nesting and foraging opportunities for birds
- Provision for continued habitat and wildlife corridors for species such as invertebrates, reptiles, hedgehogs and bats
- Protection of wildlife from increased human presence, site traffic, noise and lighting during construction and operation phases
- New planting of similar species and or translocations to create new links between hedgerows and to fill gaps in the existing hedgerows

In addition, 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. We consider that a great deal more information in relation to the management of hedgerows is needed. In general, a rotational cutting regime on a three-year cycle 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.

Newly planted hedgerows should include a significant component of blackthorn, the primary larval food plant of brown hairstreak butterfly as this area is an important stronghold for this increasingly rare species.

#### **5. Application does not provide evidence that it will help to achieve the aims of the Conservation Target Area**

Policy ESD 11 of the Cherwell Local Plan 2011 – 2031 states

*“Where development is proposed within or adjacent to a Conservation Target Area biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancement. Development which would prevent the aims of a Conservation Target Area being achieved will not be permitted. Where there is potential for development, the design and layout of the development, planning conditions or obligations will be used to secure biodiversity enhancement to help achieve the aims of the Conservation Target Area.”*

The site is located very close to the Ardley and Upper Heyford Conservation Target Area. For more information about this CTA please see <https://www.wildoxfordshire.org.uk/wp-content/uploads/2020/04/Ardley-Upper-Heyford-CTA-1.pdf>

The Oxfordshire Biodiversity Action Plan Targets associated with the CTA are as follows:

1. Calcareous grassland – management, restoration and creation;
2. Hedgerows – management and restoration;
3. Grassland management including buffering to support ground nesting birds;
4. Great crested newts (GCN) – conserve conservation status; manage ponds and terrestrial habitat such as copses and wooded strips;
5. Geological conservation (Ardley Trackways, Ardley Cutting & Quarry, Ardley Fields Quarry)

Given the proximity of the site to the CTA, we consider that information should be provided to illustrate how the development will “secure biodiversity enhancement to help achieve the aims of the Conservation Target Area” in line with Policy ESD 11.

## 6. Great Crested Newt district licence

We note that paragraph 3.1.3 of the applicant’s Ecological addendum states;

*“At the time of the previous planning submissions and the completion of the Ecological Appraisals dated 2021 the approach to mitigate the impact on Great Crested Newts had not been finalised. As the Ecological Appraisal highlighted, the site lies within Cherwell District which is covered by the Naturespace District Licensing Scheme. Naturespace have since been consulted and the previous planning applications have been authorised under Cherwell’s District Licence. The process to transfer the District License to David Wilson Homes and the new planning application is currently being processed, as such Great Crested Newts can be fully mitigated under this scheme.”*

As this is a geographical area rich in Great Crested Newts, mitigation is of great importance at this site. The documentation relating to the District license should be provided to allow for appropriate review by consultees.

## 7. Cumulative effect in the context of large infrastructure proposals for the area

The application should be looked at in the context of numerous large infrastructure proposals for the area. The cumulative effect of the proposed developments together with the Heyford Park scheme (ref: 18/00825/HYBRID) and the Proposed Oxfordshire Strategic Rail Freight Interchange (Case Reference: TR050008) will mean a huge cumulative effect which is of great concern and needs to be addressed.

### Solar Panels and green rooves

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 all suitable roof space. Research shows that green rooves can provide valuable habitats for wildlife <https://livingroofs.org/biodiversity-and-wildlife/> According to [www.livingroofs.org](http://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.

### Lighting

We are greatly concerned by the implications for wildlife from the introduction of lighting into this rural area. Invertebrates, bats and birds are all highly sensitive to the introduction of lighting into dark areas. We consider that a full strategy on lighting and wildlife should be provided at this stage.



For the reasons described above, it is our opinion that this application should not be approved, and certainly not so 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