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Cherwell District Council

By email only

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Oxfordshire Wildlife Trust
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Dear Sir/Madam

Application no: 23/01233/OUT

Proposal: Outline application (with all matters except access reserved for future consideration) for the demolition of existing buildings and the erection of up to 800 dwellings (Class C3); a two form entry primary school; a local centre (comprising convenience retailing (not less than 350sqm and up to 500sqm (Class E(a))), business uses (Class E(g)(i)) and/or financial and professional uses (Class E(c)) up to 500sqm, café or restaurant use (Class E(b)) up to 200sqm; community building (Class E and F2); car and cycle parking; associated play areas, allotments, public open green space and landscaping; new vehicular, pedestrian and cycle access points; internal roads, paths and communal parking infrastructure; associated works, infrastructure (including Sustainable Urban Drainage, services and utilities) and ancillary development. Works to the Oxford Road in the vicinity of the site to include, pedestrian and cycle infrastructure, drainage, bus stops, landscaping and ancillary development

Location: OS Parcel 4347 East Of Pipal Cottage, Oxford Road, Kidlington

Objection, in relation to the following issues:

- 1. Inadequate provision of green space**
- 2. Management of green space for the benefit of nature in perpetuity**
- 3. Insufficient evidence that populations of farmland bird species will be maintained, contrary to the NPPF, Cherwell Local Plan, and the [Conservation of Habitats and Species Regulations 2010](#) as amended by paragraph 9a of the [Conservation of Habitats and Species \(Amendment\) 2012 Regulations](#)**
- 4. Application does not provide evidence that it will help to achieve the aims of the Conservation Target 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. Inadequate provision of green space

As stated in our response to the development brief dated March 2022 (appended to this document), given their proximity to each other, we believe that this site should be considered alongside site 6b in relation to the ratio of green space provided, since dwellings will potentially cover 32ha of site 6b with very little green space provided.

The total provision of green space is in our view inadequate taking account of the impact of a potential total of 1360 dwelling covering 57ha of land across both sites.

We would suggest that in order to compensate for the scale of development envisaged on this site and site 6b and also considering the combined effect of the 6 strategic housing sites set out in the Local Plan Partial Review (“LPPR”), a large nature reserve (to be promoted and managed as such) should be included, amounting to at least 50ha, the most obvious location being part of the proposed extension to Cutteslowe Park, by extending the red line boundary as appropriate to create an additional space for such a nature reserve and green space. A nature reserve of 50ha would amount to less than 50% of the total area to be covered by dwellings on sites 6a and 6b alone.

There are numerous examples of developments which provide 40% or 50% green infrastructure and some examples are set out in our response to the development brief which we have appended to this document.

2. Management of green space for the benefit of nature in perpetuity

In order to provide the substantial benefits for wildlife that will be needed to achieve a net gain in biodiversity that is focused primarily on site there should not be public access across the entire area of the green infrastructure, but instead there should be informal recreation along a network of paths and openly accessible spaces included within a mosaic of areas that are closed off by appropriate use of hedgerows, screens, fencing and ditches.

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 forever and any compensation must be provided forever. 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. Insufficient evidence that populations of farmland bird species will be maintained, contrary to the NPPF, Cherwell Local Plan, and the [Conservation of Habitats and Species Regulations 2010](#) as amended by paragraph 9a of the [Conservation of Habitats and Species \(Amendment\) 2012 Regulations](#)).

We are greatly concerned by the significant loss of wildlife habitat used by farmland birds that this development would lead to with the current design.

Winter bird surveys found 18 species of conservation concern, 6 Red list, 11 Amber list and 1 Schedule 1 (see paragraph 3.13 of the applicant’s Ecology Baseline report) and the Breeding bird survey found 15 red and amber list bird species including confirmed breeding linnets, skylark and starling (paragraph 3.18) whilst Table EDP 4.1 notes 8–14 pairs of skylark, 1–2 pairs of yellow wagtail and 2–3 pairs of lapwing in some years.

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”

We do not accept that the benefits of the development outweigh the loss of red listed farmland bird species and we do not accept that the mitigation proposed is adequate to mitigate for the loss of habitat used by farmland birds.

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 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”*

The provision of a large nature reserve (see paragraph 1 above), if managed positively for farmland birds, might go some way towards mitigating the loss of farmland birds which will inevitably be displaced by the development.

4. 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 Thames and Cherwell at Oxford Conservation Target Area. The Oxfordshire Biodiversity Action Plan target habitats for creation therefore provide a useful guide the habitats to be created on the proposed development site. Oxfordshire Biodiversity Action Plan Targets associated with this CTA are:

1. Lowland meadow (and floodplain grazing marsh) – management, restoration and creation.
2. Fen (and swamp) – management, restoration and creation.
3. Reedbed – management and creation.
4. River – management and restoration (including resource protection).

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*” The provision of a large nature reserve (see paragraph 1 above) might therefore include some of the above habitats in order to help achieve the aims of the CTA in line with Policy ESD 11.

Solar Panels and green roofs

In the event that this application is approved we would suggest that that developers should be required to maximise the provision of either green roofs 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, 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, 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

Appendix 1 BBOWT response to CDC Development Briefs March 2022