

Cherwell District Council

By email only

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13th July 2023

Dear Sir/Madam



Application number: 23/01503/OUT

Proposal: Erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access - re-submission of 21/04289/OUT

Location: OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of Camp Road Upper Heyford

Objection:

- 1. Cumulative effect in the context of large infrastructure proposals for the area**
- 2. Potential impact on Weston Fen SSSI**
- 3. Potential impact on the Heath & The Gorse Trackway proposed Cherwell District Wildlife Sites and Upper Heyford Airfield Local Wildlife Site**
- 4. Insufficient evidence that populations of bird species will be maintained**
- 5. Application does not provide evidence that it will help to achieve the aims of the Conservation Target Area**
- 6. Buffer zones and management of hedgerows in order to achieve biodiversity net gain**
- 7. The importance of a net gain in biodiversity being in perpetuity**

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. 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, namely:

- The Proposed Oxfordshire Strategic Rail Freight Interchange (Case Reference: TR050008)
- Heyford Park scheme (18/00825/HYBRID) - outline planning permission for the erection of up to 1,175 dwellings, 60 close care dwellings, retail space, a new medical centre,

employment buildings, a new school building, community use buildings and indoor sports space.

- Land East of Larsen Road Upper Heyford (15/01357/F) – a residential development consisting of the erection of 89 dwellings.
- Heyford Park, South of Camp Road (16/02446/F) - erection of 296 residential dwellings (C3) comprising a mix of open market and affordable housing, together with associated works including provision of new and amended vehicular and pedestrian accesses, public open space.
- The development planned through Policy Villages 5 within the Cherwell Local Plan 2011 – 2031 Part 1 - this site will provide a settlement of approximately 1,600 dwellings (in addition to the 761 dwellings (net) already permitted) and necessary supporting infrastructure.

Taken in combination this will mean a huge cumulative effect which is of great concern and needs to be addressed.

2. Potential impact on Weston Fen SSSI

Weston Fen has a variety of habitats that are national priorities for nature conservation. The fen ranges from tall vegetation with reeds and tall sedges to shorter rush dominated fen vegetation. This is one a group of rich Oxfordshire fens which elsewhere in the country are found mainly in East Anglia and North Wales. At the northern edge the fen becomes mixed with wet grassland habitat. Further north there is an area known as the Stone Pits where limestone was quarried in the past. Limestone grassland is found here. The rest of the site is wet willow dominated woodland and drier mixed broadleaved woodland.

The applicant states at paragraph 7.4.2 of the Environmental Statement (ES):

“The stream on Site is hydrologically linked to Gallos Brook in the south, which flows into Weston Fen SSSI (<https://www.wwf.org.uk/uk-rivers-map2>) approximately 5.7km south of the Site. Weston Fen SSSI is designated for plant communities associated with wetland habitat and for invertebrate fauna. This stream is also linked to the Heyford Park site (16/02446/F).”

We note that paragraph 7.4.11 states:

“Further assessment will be completed to ensure that any potential detrimental impacts to the hydrology (flow rate, water quality, water levels) of the SSSI are mitigated for as part of the Proposed Development.”

The planning policy to defend irreplaceable habitats is very strict. The NPPF states:

“175. When determining planning applications, local planning authorities should apply the following principles:.....c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and”

The revised NPPF (2018) Glossary states (with our underlining):

“Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.”

Lowland fen habitat is extremely sensitive to changes in hydrology (water quality and water quantity). The potential for impact on the SSSI and its irreplaceable habitat needs to be rigorously assessed, in the context of NPPF planning policy stating:

“c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;”

The applicant should therefore submit evidence, and details of mitigation measures, to demonstrate that there is no risk of deterioration of irreplaceable habitat in the SSSI, nor risk of deterioration of the SSSI, and any approval should be accompanied by requirements:

- a) that ensure that there will be in perpetuity maintenance of any measures put in to ensure no hydrological (water quality and water quantity) impact on the SSSI.
- b) that there will be an in perpetuity monitoring programme put in place on the SSSI to enable any negative changes to be identified,
- c) that there will be an in perpetuity requirement on the part of the applicant for measures to be taken to address any negative changes identified by b) above.

3. Potential impact on the Heath & The Gorse Trackway proposed Cherwell District Wildlife Sites and Upper Heyford Airfield Local Wildlife Site

The applicant’s ES states at Paragraph 7.4.3:

The Heath District Wildlife Site Citation (DWSC) is the closest non statutory designated site to the Site and this is located 20m to the east. This is designated as for broadleaved woodland and scrub. Ardley Trackway Adjacent to Gorse DWSC is located 50m south and is designated for species rich hedgerows. Upper Heyford Airfield Local Wildlife Site (LWS) is located 430m north. This is designated for species rich calcareous grassland, woodland and a large population of great crested newts. This population is functionally linked to the Proposed Development through a network of waterbodies and watercourses.

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 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” ...

Given that Upper Heyford Airfield contains habitat types and species that are vulnerable to changes in hydrology, both water quality and water quantity, we are concerned about any potential negative impact as a result of changes in hydrology.

In addition, there is also a risk of direct impact on the habitats and species of principle importance within the DWSCs (which are very close to the proposed development) and to the LWS as a result of increased recreational pressure and predation by pets.

We would ask that detailed information about the measures in place to ensure that there is no negative impact (temporary or permanent) on the LNR/DWS are submitted at this stage including information about monitoring and enforcement protocols to monitor changes in hydrology or recreational impact on the LNR/DWS and to the measures to be taken to address them if there is evidence of negative impact. We do not consider that the applicant has demonstrated that the benefits of the development outweigh the harm it would cause or the loss can be mitigated and therefore the application is contrary to Policy ESD 10 above.

4. Insufficient evidence that populations of bird species will be maintained

We note that the applicant’s ECIA paragraph 5.4.3 (ii) states:

*“The scattered trees, woodland, scrub, inundation vegetation, standing water running water, buildings and hedgerows within the site provide suitable habitat for nesting birds. A red kite record was returned on site from 2014. No details were available on whether this record included a foraging, commuting or a breeding red kite. Red kite is a Schedule 1 protected species. A red kite nest with a red kite individual using the nest was also identified during the initial phase 1 survey. Other bird species seen on site at the time of the survey included grey heron (*Ardea cinerea*), blackbird (*Turdus merula*), robin (*Erithacus rubecula*), dusk species, Canada goose (*Branta Canadensis*) and great tit (*Parus major*). While BoCC could use the site, the majority of the suitable breeding bird habitats are to be retained by site works, with likely no more than one or two pairs of any given species to be impacted. Therefore, breeding bird surveys are considered disproportional for this site.”*

However, given the habitats available on this site and considering the cumulative effect of the large infrastructure proposals in the area (set out in paragraph 1 above), we are greatly concerned by the significant loss of wildlife habitat that this development combined with the others would lead to.

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 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”

We consider that the applicant should undertake appropriate breeding and wintering bird surveys and depending on the outcome of these, 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. It would not be acceptable to suggest that there is suitable habitat elsewhere for priority species since the territories in these areas would already be occupied, and this would be contrary to ecological theory of carrying capacity. The applicant should demonstrate that the benefits of the development outweigh the harm caused to any priority species found and that the loss can be mitigated to achieve a net gain in line with policy ESD 10 above and, in addition, the applicant should provide sufficient evidence that the proposed development 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” in line with the DEFRA guidance quoted above.

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

The applicant states at paragraph 7.4.3 of the ES:

“Taken together with Trow Pool LWS, Ardley Cutting SSSI and Arley field pLWS, the Site is bordered to the east by Ardley and Heyford Conservation target Area (CTA). The CTA supports

about 50% of the calcareous grassland in Cherwell District and shows considerable species interest, in particular great crested newts, birds and butterflies.”

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 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)

For more information about the CTA see:

<https://www.wildoxfordshire.org.uk/wp-content/uploads/2020/04/Ardley-Upper-Heyford-CTA-1.pdf>

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. 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.

7. 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.

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 roofs 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 roofs 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.

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