

Note regarding the Cherwell Biodiversity/ Ecology checklist in relation to this RM application

The checklist was approved as part of the Council's validation requirements in March 2024. Dorchester made representations about the proposed changes and, in particular, requested clarity on the fundamental difference between applications for planning permission *and* Reserved Matters.

According to its supporting commentary, the checklist is "*....not an exhaustive list but designed to assist applicants in determining whether a report is required...*". The accompanying Appendix 1 states that ecology surveys and reports are "*possible*" requirements for Outline/ RM situations.

In this case, we would respectfully submit that an ecology report and/or biodiversity net gain report (BNG) is **not** required or justified for this RM application for the following reasons, which relate to the terms of extant conditions and Obligations for the extant hybrid planning permission;

- The application seeks approval of the LPA for the following, pursuant to planning permission 18/00825/HYBRID; "*Reserved matters relating to infrastructure works, namely the upgrade of Chilgrove Drive (to provide primary HGV access as per the approved Composite Parameter Plan) and associated roads and the provision of an associated signalised junction with Camp Road*". The scope of the RM considerations for this case are defined in the application as follows; appearance , means of access , landscaping, layout and scale.
- Permission reference 18/00825/HYBRID was granted on 9th September 2022. The ecological and BNG aspects of that application application were *fully assessed* under EIA Regulations and applying S38(6) of the Planning and Compulsory Purchase Act 2004. Condition 4 of the planning permission requires the development to be carried out strictly in accordance with the submitted ES documents.
- The Officer report to Committee in relation to the application stated the following;

"9.192. The application is supported by a detailed protected species survey which was supplemented in July 2020 by submission of a further technical note following recalculation of the Biodiversity Net Gain Calculator based on the whole site and just the area subject of physical development. As a result, more ambitious habitat condition targets were set but with the consequence they would take longer to achieve. The main proposal is to convert an agricultural field on the Cherwell Valley to the west of the flying field to calcareous grassland. This will take 25 years to achieve but with a 5-year head start so 20 years in reality. Other areas to be semi improved will now take 15 years to achieve. A justification has been set out in the technical note setting out principle base on getting the soil right, using locally sourced seed and having a long-term management plan. There will also be wildlife installations in new buildings for house sparrows, starlings, swifts and crevice dwelling bats.

9.193. The Technical Note also dealt with the fact that since the application was submitted, part of the site has been declared part of Ardley and Heyford Conservation Target Area (CTA). To comply with the CTA objectives there will be a net gain of 16.38 ha of unimproved calcareous grassland. New hedges will be planted to align the reinstated ancient footways of Portway and Aves Ditch. The grassland will be managed to protect ground nesting birds and increase their habitat by 27.35ha. Some great crested newt habitat including 4 ponds will be lost, 8 new ponds will be created positioned to increase GCN connectivity. There will also be terrestrial habitat enhancement. None of the nearby geological conservation designated areas will be affected.

9.194. The note has been assessed by the Council's ecology officer who is generally happy with the plans to increase the overall net gain for biodiversity on site by aiming for a better-quality habitat in the area of created grassland. With little scope for additional land this seems the best option ecologically and will secure a long-term increase in good quality calcareous grassland thus also according with the aims of the CTA. The new Technical Note also commits to an equivalent of one wildlife installation per dwelling which fits with CDC aims and should be included in a LEMP (or a separate Biodiversity Enhancement Scheme) and where necessary on architects plans for buildings.

9.195. A full LEMP will be needed for the site and should be conditioned. The LEMP should be in place at the early stages and reviewed as necessary at each phase of the development with a submission and approval from the LPA. The LEMP should integrate with the current Flying Field Ecological Management Plan or replace it with a new long-term specific plan for this area. Surveys may need to be updated prior to each phase of the development as required, particularly bats, badgers and great crested newts. This will therefore require a condition."

- Moreover, the permission is the subject of **existing ecological conditions**, including conditions 11 (LEMP) and 12 (Construction Environmental Management Plan (CEMP: Biodiversity).
- In addition, planning condition **13** states that:

"Prior to the commencement of any phase of the development, the site subject to that phase shall be assessed by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme. If the development or a specified phase of development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the planning consent, the approved ecological measures secured through shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to: i) establish if there have been any changes in the presence and/or abundance of bats, badgers and great crested newts; and ii) identify any likely new ecological impacts that might arise from any changes. 3 Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable. Where the approved development is to proceed in a series of phases, further supplementary ecological surveys for bats, badgers and great crested newts shall be undertaken to inform the preparation and implementation of corresponding phases of ecological measures required. The supplementary surveys shall be of an appropriate type for the above habitats and/or species and survey methods shall follow national good practice guidelines.

- Planning condition **16** states that

“16. Full details of a scheme for the location of bat, bird, owl and invertebrate boxes on each phase of development not in use at the time of the permission shall be submitted to and approved in writing by the Local Planning Authority for each phase. Thereafter and prior to the occupation of any building on that phase of the development, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details. “

Submission of applications to discharge the above conditions will be made in due course as per the requirements of the planning permission.

In addition, the Sixth Schedule of the S106 Agreement requires us to submit an Ecology Scheme for LPA approval. The proposed mitigation measures for the wider Site (required by the hybrid permission) will contribute to the targets of the CTA, in particular, the management, restoration and creation of calcareous grassland, grassland management for ground nesting birds and the creation of new breeding ponds for great crested newt as well as the creation and maintenance of terrestrial habitat. Again, this information will be submitted in due course.

Given the above, we would respectfully submit that an ecology report and/or biodiversity net gain report (BNG) is **not** required or justified for this RM application.