

Cherwell District Council

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By email only

16th January 2025

Berkshire, Buckinghamshire &
Oxfordshire Wildlife Trust
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Dear Sir/Madam

24/03259/F

Location: Land Adjacent to Symmetry Park Morrell Way Bicester OX26 6GF

Proposal: The erection of two Use Class B8 floorspace units (with ancillary office floorspace (Use Class E(G(i))) with associated infrastructure including: a building for the use as an energy centre (details of the energy generation reserved for future approval); loading bays; service yards; external plant; bin stores, vehicle parking (HGV, lorry, car and motorcycle); cycle parking, amenity areas, landscaping including permanent landscaped mounds; sustainable drainage details. Demolition of three vacant agricultural building (and two smaller structures) to the north east corner of the site. Access from the existing Symmetry Park estate road.

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. We have the following comments in relation to this application:

Objection:

- 1. Application does not provide adequate evidence of a net gain in biodiversity**
- 2. The importance of a net gain in biodiversity being in perpetuity**
- 3. Potential impact on Meadow North West of Blackthorn Hill Local Wildlife Site**
- 4. Loss of ridge and furrow grassland**
- 5. Buffer zones and management of hedgerows in order to achieve biodiversity net gain**
- 6. 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 2017 (as amended).**
- 7. The proposed development does not achieve the aims of the Ray Conservation Target Area**

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

The Environment Act 2021 requires a Biodiversity Gain Plan to be submitted and approved prior to the commencement of development. The Biodiversity Gain Plan must demonstrate a minimum 10% biodiversity net gain measured against the baseline value of the on-site habitats.

At A7.21 of the applicants **Appendix EDP 7 Biodiversity Net Gain Assessment** it is acknowledged that:

“The Metric has demonstrated a significant net loss in habitat units and as such, the Applicant intends to commit to delivering a net gain in biodiversity via an off-site solution to create/enhance habitats to generate the unit shortfall.”

In fact, the applicant’s metric shows a net loss of -76.40% habitat units.

The applicant states that:

“The offsetting scheme will be set out within the Biodiversity Gain Plan which will be submitted to and approved by the Local Planning Authority pre-commencement as per the general biodiversity gain condition under the granted Planning Permission.”

However, it is our opinion that details of the proposed off-site solution to generate the unit shortfall should be submitted at this stage so that they can be analysed and commented on since the potential to achieve a minimum 10% Biodiversity Net Gain is fundamental to the acceptability of the application.

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.

3. Potential impact on Meadow North West of Blackthorn Hill Local Wildlife Site

Meadows NW of Blackthorn Hill is a Local Wildlife Site (LWS) directly adjacent to the proposed development. It is home to a plethora of flora species typical and indicative of lowland meadow priority habitat, and as such is of particular importance for invertebrates including priority species.

Local Wildlife Sites (LWSs) are identified and selected locally by partnerships of local authorities, nature conservation charities, statutory agencies, ecologists, and local nature experts, using robust scientifically determined criteria and detailed ecological surveys. Their selection is based on the most important distinctive and threatened species and habitats within a national, regional, and local context. This makes them some of our most valuable wildlife areas.

This site is noted for its connectivity with other habitats in the surrounding landscape (nearby sites including Gavray Drive Meadows LWS, Cutter's Brook meadows LWS and Blackthorn Meadow LWS) but crucially for its fragility. Lowland Meadow habitat is particularly vulnerable to changes in hydrology (both water quality and quantity) and we are concerned that the ditch on the western boundary of the proposed site runs adjacent to this LWS. As indicated on the applicants post development habitat plan (**Plan EDP 8**) the developed land hard surface goes right up to the edge of the majority of the ditch. As a result, it is foreseeable that this ditch and therefore the LWS may be polluted by significant amounts of surface runoff.

Policy ESD 10 from the Cherwell Local Plan 2010-2031 states that

“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”

We do not consider that the applicant has provided evidence that 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 in line with local policy.

4. Loss of ridge and furrow grassland

The proposed development site contains a substantial area of ridge and furrow grassland. Oxfordshire is one of the most important counties in England for such grassland, and the ridge and furrow grassland on site represents a substantial amount bearing in mind that once ridge and furrow grassland is lost it is gone for ever. As an archaeological feature indicating a lack of ploughing or other structural management, the grassland within ridge and furrow areas can be biodiverse due to the hydrological and soil impact of the variation in height between the ridges and furrows, and because the fact that the ridge and furrow is still there from medieval times is indicative of a lack of deep ploughing over a considerable time period and therefore there is likely to be an undisturbed soil structure with diverse soil fauna. We are greatly concerned by the loss of ridge and furrow that would result from this proposal.

5. 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. Buffer 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.

6. 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 2017 (as amended).

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.

Table **EDP A3.3** lists the Breeding Birds of Conservation Importance (Schedule 1; Priority Species and other notable species) recorded as likely breeding on-site and or within the Study Area 2022 and 2024 totalling 17 red and amber listed 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 and amber listed farmland bird species, and we do not accept that the mitigation proposed will achieve an adequate net gain in biodiversity (see above).

DEFRA have provided guidance to competent authorities (including local authorities) on how to comply with the legal requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). The guidance is available at: <https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>

The guidance states that:

“As a competent authority, you must help to provide, protect and restore habitats for wild birds. This will help to make sure there are healthy populations of wild birds in their natural habitats across England and Wales...

...You must take appropriate steps to help:

- *preserve, manage and re-establish habitat that is large and varied enough for wild birds to support and maintain their populations in the long term*
- *avoid any pollution or deterioration of wild bird habitat as far as possible*

Your duty to provide and protect wild bird habitats applies when you carry out your functions, for example, when you:

...

- *make plans or strategies to decide where activities or development should take place*
- *take decisions that might affect wild bird habitats, such as giving permissions or consents*

...When you carry out your duties you should aim to provide or protect habitat that allows wild bird populations to maintain their numbers in the areas where they naturally live.

You should consider habitats used by wild bird species that are in decline and also habitats supporting wild birds with healthy populations.”

This application currently does not provide sufficient evidence that it will “*preserve, manage and re-establish habitat that is large and varied enough for wild birds to support their population in the long term*” in relation both to “*wild birds that are in decline*” and to “*wild birds with healthy populations*”

There is a precedent within Cherwell district for a large-scale offsite mitigation package in relation to impact on farmland birds which was drawn up in response to the North West Bicester Eco Town proposal and it is our opinion that should the planning authority be minded to approve the application then a similar offsite mitigation package should be applied in this case.

7. Proposal does not achieve the aims of the Ray Conservation Target Area (CTA)

The proposed development is directly adjacent to the Ray CTA and the CTA includes the Meadow North West of Blackthorn Hill Local Wildlife Site referred to above. The key habitat in this area is lowland meadow. Oxfordshire Biodiversity Action Plan Targets associated with this CTA are as follows:

1. Lowland meadow – management, restoration and creation (with a focus on MG4 hay meadows).
2. Floodplain grazing marsh - management, restoration and creation (with a focus on breeding waders).
3. Reedbed – creation.
4. Ponds – creation (particularly of pond complexes).
5. Hedgerows – management (good management of existing hedgerows on short and longterm rotation, which will benefit brown and black hairstreaks and other wildlife).
6. Rivers – management and restoration (resource protection of watercourses to maintain and improve water quality).

The application in its current form does not illustrate how the proposed development will help to achieve the aims of the adjacent CTA as set out above.

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 are particularly concerned if there is 24-hour operation or significant operation after darkness of the site. All lighting both during construction and operation must be minimised, through for example the use of low bollard lighting if needed for safety along access routes. Also, the spectrum of lighting used must be of a type with the least impact on wildlife, light intensity must be minimised, and cowls should be used to prevent light leakage. A full strategy on Lighting and Wildlife should be provided

Solar Panels and green roofs

In the event that this application is approved despite our concerns, 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.

However, 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