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BY E-MAIL ONLY

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Our Ref: DW/Gavray/CDC - 201014

Dear Rebecca

**TOWN AND COUNTRY PLANNING ACT 1990 &
TCPA (ASSESSMENT OF ENVIRONMENTAL IMPACTS) REGULATIONS 2011
SCOPING APPLICATIONS 14/00008/SCOP (Gavray Drive East) AND 14/00009/SCOP (Gavray Drive West)
CONSULTATION RESPONSE**

Thank you for your letter of 1st October inviting comments on the above submitted scoping applications. I have reviewed the applicant's scoping reports and related documentation, which I note to be little changed from the single report submitted in support of scoping application 14/00001/SCOP in Spring 2014. The main change appears to be that Gallagher Estates have now decided, apparently in response to advice from CDC, to submit separate applications for the areas of the site west and east of the Langford Brook. The applicant also cites emerging policy support for the applications, despite the fact that the quantum of housing they propose exceeds the limit envisaged by the Council in the draft policy and the fact that the draft policy is itself the subject of formal examination, which may see it modified in line with the multiple objections it has elicited.

On the basis that relatively little else has changed other than the fission of one application into two, I need not repeat all of the comments I made in March 2014 in response to 14/00001/SCOP. It should be noted however that the following issues remain:

- While the botanical survey information now presented remains a vast improvement on previous assessments, it remains disappointing that it still omits consideration of the remaining pockets of grassland within Field 2, as mapped on plan EDP1 submitted with the supporting EDP report, and which clearly have the same 'unimproved' origins as much of the grassland within the LWS, albeit badly affected by scrub invasion in recent years. This is an important point in assessing the merits of the latest masterplan.
- On butterflies, as previously, I will defer to the national and local experts from Butterfly Conservation, but I would make the observation that a further section 41 species, grizzled skipper, is inexplicably omitted from the baseline despite having been recorded by a local party last year and I believe despite photographic confirmation having been sent to EDP by that individual.

I note that the previous failure to conduct overnight moth-trapping surveys, despite these being specifically advised in many previous consultations dating back many years, is now stated as to be remedied in 2014. This is an important step forward as moths remain a significantly under-studied species on this site, and the recent discovery of the day-flying forester moth, also a priority species under section 41 of the NERC Act, clearly signposts that there could be substantial as yet undocumented interest associated with this group. This is an important point in assessing

the merits of the proposed scope of the EIA and the latest masterplan. However if additional and remedial survey work on moths has now been completed, as it presumably must have been by this point in the year, it is unclear why this has not been included along with all the other surveys within the application documentation. Assuming the work has been carried out to an adequate standard, this will assist with correcting the flawed and inconsistent approach to evaluation of invertebrates as a collective group that was raised as a concern in the previous scoping report. Indeed I note that the applicant has responded to such criticism by raising the status of the overall invertebrate assemblage to a 'valued ecological receptor' in recognition of the previous oversight.

However the approach of 'scoping out' elements "not currently considered to be VER's" remains. I previously indicated that this is a non-standard approach that is inherently challengeable in EIA terms as it risks failing to alert decision makers to 'likely significant effects'. Despite the elevation of the 'District' level of importance receptor of invertebrates to a 'VER' in response to this criticism, the intention still appears to be to scope out other receptors valued at District level (e.g. the overall breeding bird assemblage). As previously stated, this could mean that District level impacts falling within the ambit of 'likely significant effects' in EIA terms, and which will be integral to the process of assessing local plan policy compliance in any event, will fail to be identified in the ES, and cannot then be taken into account by decision makers. This could undermine the validity and legal robustness of the EIA. As stated previously, I would strongly recommend that the approach advocated by the Chartered Institute of Ecology and Environmental Management (CIEEM) and as set out in their Guidelines for Ecological Impact Assessment is more fully and properly followed, as indeed it is stated will be the case elsewhere in the scoping report. This absolutely does not mean that every last receptor needs to be included in the assessment, but it does mean that receptors clearly identified as of conservation importance (e.g. species of Principal Importance further to sections 40 and 41 of the NERC Act, including several bird species and harvest mouse) should not be artificially set aside in the manner being proposed.

As previously stated, while the surveys for amphibians, breeding and wintering birds and bats presented in the 2013 report are subject to various omissions and/or limitations, on the whole these are minor and I am content that overall the work provides a reasonably representative baseline for these groups.

I therefore consider that, subject to the above comments, and seeing the methodology and results of the 2014 moth surveys in particular, the ecological baseline is broadly sufficient for EIA purposes. The approach to assessment, using this information, does however still need to be amended to be in line with minimum industry standards and I advise that the Council seeks confirmation on this point in order to avoid a flawed and legally challengeable EIA.

Turning aside from ecology, you will recall that in my responses to both 13/00001/SCOP and 14/00001/SCOP, I also offered comments on other EIA disciplines. The result of any further work on these disciplines is not included in the applicant's scoping report, although comments are provided on the approach that they intend to take to each. I repeat the comments on each of these as follows:

Air Quality – no comments to make

Arboriculture – I welcome the intention to map root protection zones for trees. I note that the stated intention is for RPZs for both trees and hedgerows to be respected in designing the development interface with retained hedgerow and tree features (see para 3.4 of the scoping report). In this context I would observe that the arboricultural survey needs also to map RPZs for hedgerows as well as trees.

Archaeology and Heritage – I previously commented that the Environmental Statement submitted in support of a previous industrial proposal classed the relict Mediaeval hedge and green lane pattern in the eastern part of the site (including one hedgerow assessed to be of Saxon age), together with the extent of intact ridge and furrow, to be a 'regionally significant' historic landscape. In this context I welcome the statements at 5.20 and 5.25 which appear to recognise the presence of historic landscape receptors and commit to their inclusion in the assessment process.

Hydrology and Drainage – I am concerned that the statement at paragraph 5.38 suggests that all surface water drainage will be directed to the public sewer network, after appropriate attenuation. Although mention is now made of SUDS, there still does not appear to be any intention to make provision for upholding existing groundwater

infiltration rates, which raises the possibility that the hydrological regime underpinning the grassland habitats of conservation importance on the site could be subject to derogation. The applicant previously commissioned a study from the Wetlands Advisory Service that established a good baseline understanding of the existing hydrological regime. It is crucially important to the future of the retained habitats that this existing regime is protected. My previous (2013) comments on this aspect of the EIA therefore still stand, so I repeat them here:

“FRA should be carried out in accordance with the latest flood risk models adjusted for climate change and should include details of any compensation excavations proposed, including assessment of alternatives (e.g. to developing in the flood zone).

Details will need to be provided as to how on-site attenuation of surface water will be designed and managed in accordance with best practice SUDS principles to replicate existing Greenfield rates of run-off from the site to avoid increasing downstream flood risk (including within Langford Village, but also in respect of downstream SSSIs identified as a concern by Natural England).

Details will need to be provided as to how surface water quality will be upheld, including through use of interception and filtration systems and through biological treatment in ‘open’ SUDS systems.

The existing hydrological regimes supporting lowland flood meadow, retained hedgerows and ponds should be understood through appropriate survey information and details set out as to how these would be replicated, including compensatory provision for loss of inputs from hard development and/or from re-direction of established flows.”

Landscape and Visual Amenity – no comments to make

Noise – no comments to make

Services and Utilities – no comments to make

Socio-economics – no comments to make

Transportation and Access – I welcome the commitment to assess construction traffic movements to rectify the omission of this important potential impact source from the previous ES.

There are two other areas that I believe the EIA needs to cover, as set out in my response to 13/00001/SCOP, but for which there is no specific mention in the latest scoping report. I therefore repeat the comments here:

Sustainability

As well as ‘locational’ sustainability (including proximity to facilities and likely transport modes of residents), this section of the ES needs to cover matters such as the source of building materials – in particular the type and source of primary aggregate required for any land raising.

Details of the cut and fill balance, including in particular the likely requirements for export of surplus material from the site, also need to be provided (amongst other things to inform construction traffic assessments).

Cumulative Impacts and consideration of alternatives

The EIA process needs to include proper consideration of alternatives, including reduced scale or altered configuration of development within the site, over and above alternative sites and in the context of need. It is also crucial, in the context of the current rapid expansion of Bicester and pressure on the existing transport, drainage and sewerage infrastructure, that cumulative effects are considered – not only of recently completed developments but of those ‘in planning’ or envisaged as part of CDCs’ Bicester masterplan.

Achieving ‘not net loss’ and compliance with national policy

I hope the above comments are helpful in terms of setting the scope for the forthcoming EIAs of the applicant's revised development proposals. I note that in terms of the progression of those proposals beyond the indicative masterplan stage, the 'split' masterplans provided do not take us further forward from the position in March this year. Indeed, the applicant's intended site yield appears to have gone up, despite the apparent acceptance that this is a site with particular and weighty constraints. Because the information base on ecology is now much better known, it is surprising that the applicants consider that 160 dwellings could be delivered on the land east of Langford Brook. The source of this conflict between the ambitions of the applicant and the need to achieve a form of development that is sustainable in the context of the NPPF, may well be continuing unaddressed flaws in the evaluation of the baseline survey information. Despite concerns having been raised about this issue previously in respect of 14/00001/SCOP, I note that the same problems remain.

To ensure national and local policy compliance the objective of the masterplan has to be to achieve 'no net loss' of biodiversity and 'net gain' where possible. On this sensitive site, this will only be achieved by a combination of retention of critical habitat resources, managing the tension between development proximity and optimal management, and putting the mechanisms in place as part of the development package to deliver and sustain the optimum management of the site into the long term.

There are no defined systems for 'measuring' net loss or net gain, but using the emerging Defra metrics that inform the pilot 'biodiversity offsetting' system, and assuming optimum management is delivered and sustained for retained habitats, the current indicative masterplan still indicates a small shortfall in equity of loss versus gain.

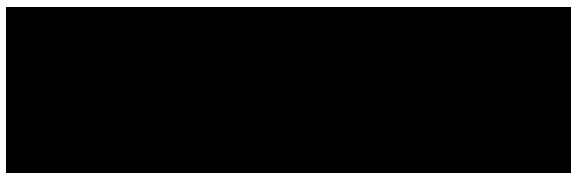
Sensitivity testing suggests that this shortfall would be remedied by an element of further 'pull back' from the boundaries of the Local Wildlife Site in the eastern part of the site, in particular in terms of Fields 3 and 2, which have intrinsic interests complementing the LWS and which assist its connectivity eastwards to the wider River Ray Conservation Target Area. I note that these fields fall within the area subject to the CTA policy in any event.

If optimum (grazing and hay-cutting) management of the retained LWS is to be achieved, there is also a need to ensure that such management is a viable proposition. In this context, there is a need for on-site areas of semi-improved grassland, such as that within Fields 8, 9 and 3, to be available as a place to rotate grazing animals.

It is in no-one's interests to preclude public access and use of the retained habitats – at the end of the day this site is, and should remain, a fantastic asset for the people of Bicester. But in order for it to remain so, formal open space uses, or uses that are likely to generate pressure from future residents to manage the site in a certain way (e.g. informal kick-about areas) will not be compatible uses for the retained habitats. Conversely, the larger retained area relative to neighbouring development will, assuming the delivery of optimum management, improve the resilience of the retained LWS to informal uses, rendering jogging, dog-walking and passive recreation (e.g. around field edges on mown paths) able to be accommodated without significant detriment. Indeed the presence of this asset on the doorstep is likely to have a highly positive effect on values and by extension the sense of local ownership and stewardship and the motivation to sustain it.

I hope these comments are useful.

Best regards



Dominic Woodfield CEcol CEnv MCIEEM
Director