

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE

Date: 15 June 2020

Report of Additional Representations



**WEST OXFORDSHIRE
DISTRICT COUNCIL**

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Report of Additional Representations

Application Number	19/02736/RES
Site Address	Land North And West And East Of Belclose Cottage Witney Road North Leigh Oxfordshire
Date	2nd June 2020
Officer	Chris Wood
Officer Recommendations	Approve
Parish	North Leigh Parish Council
Grid Reference	438829 E 212578 N
Committee Date	15th June 2020

Application Details:

Reserved matters pursuant to 16/04234/OUT- landscaping, appearance, layout and scale and the discharge of planning conditions 7, 8, 9, 14, 15 and 20. (Amended)

Applicant Details:

Bewley Homes
C/O Agent

Additional Representations:

Ecology/ Biodiversity Updated comments:

Recommendation of approval satisfactory; although 'pinch-point' along the north-eastern corner of the site has not been addressed and need to enhance green infrastructure on site further.

Additional matters raised previous response can be addressed through specifically worded conditions in combination with the Habitat Management Plan required under the S.106.

Following conditions recommended:

Conditions

- a) *The development shall be completed in accordance with the recommendations in Section 5 of the Bird Scoping Survey Report, dated July 2016 prepared by Lockhart Garratt, Section 6 of the Bat Activity Survey report, dated December 2016 prepared by Lockhart Garratt, as well as Section 5 of the Extended Phase 1 Habitat Survey report, dated April 2016 prepared by Lockhart Garratt, as submitted with the planning application. All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority.*

REASON: To ensure that protected and priority species (bats, birds, amphibians, reptiles, badgers and hedgehogs) and priority habitats (such as hedgerows) are protected in accordance with The Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 as amended, Circular 06/2005, the National Planning Policy Framework (in particular Chapter 15), Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

- b) *Before the erection of any external walls, details of external lighting shall be submitted to and approved in writing by the local planning authority. The details shall show how and where external lighting will be installed (including the type of lighting), so that it can be clearly demonstrated that light spillage into the wildlife corridors (including the hedgerow boundaries and the public open space areas) will be minimised as much as*

possible to avoid disturbing foraging and commuting bat species. The external lighting details should ensure the following:

- The western area (e.g. public open space area) of the site should not be significantly fragmented by lighting. For example, one-sided and downward directional lighting bollards could be used along the access road and footpath (if necessary) in this area, and these could be strategically placed to minimise disturbance;
- Reduce illumination to the northern and eastern hedgerows (i.e. where the access roads end). The location of the lighting columns could be altered (e.g. moving them closer to the dwellings) or accessories such as hoods, baffles or shields could be used to direct light away from the hedgerows;

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details, and these shall be maintained thereafter in accordance with these details. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To protect foraging and commuting bats in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), Circular 06/2005, the National Planning Policy Framework (in particular Chapter 15), Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

- c) Before the erection of any external walls, details of the provision of integrated (i.e. built-in to walls) bat roosting features and nesting opportunities for birds within the walls of the new buildings as well as hedgehog gaps/holes under/through walls and/or fences, shall be submitted to the local planning authority for approval. The following bat roosting and bird nesting features should be provided:
- 9 no. integrated swift bricks, implemented in groups of 3, adjacent to vegetation;
 - 9 no. integrated house sparrow terraces adjacent to vegetation;
 - 3 no. integrated starling boxes adjacent to vegetation;
 - 3 no. nesting opportunities suitable for dunnocks to be installed in suitable vegetation/on trees;
 - 3 no. general purpose woodcrete boxes to be installed on trees;
 - 5 no. integrated bat boxes/tubes/bricks in buildings close to the boundaries of the site.

The details shall include drawings showing the types of features, their locations within the site and their positions on the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before the dwellings hereby approved are first occupied and thereafter permanently retained.

REASON: To provide additional roosting for bats, nesting birds and ensure permeability for hedgehogs as a biodiversity enhancement in accordance with paragraphs 170, 174 and 175 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire Local Plan 2031 and Section 40 of the Natural Environment and Rural Communities Act 2006

- d) No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to

and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- i. Risk assessment of potentially damaging construction activities;
- ii. Identification of 'biodiversity protection zones';
- iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
- v. The times during construction when specialists ecologists need to be present on site to oversee works;
- vi. Responsible persons and lines of communication;
- vii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
- viii. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period; and
- ix. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

REASON: To ensure that protected and priority species (including bats, birds, amphibians, reptiles, badgers and hedgehogs) and priority habitats (including hedgerows) are safeguarded in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended, The Hedgerow Regulations 1997, Circular 06/2005, the National Planning Policy Framework (in particular Chapter 15), EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

- e) Prior to the development of the site hereby approved, a Habitat Management Scheme (as required under the S.106 agreement) shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall be in accordance with the Landscaping Layout Sheets 1, 2, 3 and 4 (drawing nos. 101-1, 101-2, 101-3 and 101-4) submitted with the planning application and shall include, but not necessarily be limited to, the following details:
 - i. All habitat compensation and enhancement measures as well as the long-term management and maintenance plan, as outlined in the drawings listed;
 - ii. Additional biodiversity enhancement measures including a 1- 2 metre buffer to all hedgerows (planted with shade-tolerant wildflower seed mix) and a flowering lawn mixture (or similar) between the footpath links and the dwellings;
 - iii. Aims and objectives of management, including how the habitat management will contribute towards the objectives and targets of the Wychwood and Lower Evenlode Conservation Target Area (CTA) and how the multi-functionality of the site will be enhanced whilst reducing trampling to sensitive areas (e.g. the mowing of paths through wildflower meadow areas within the public open space);
 - iv. Appropriate management options for achieving aims and objectives;
 - v. Prescriptions for management actions;

- vi. A work schedule matrix (i.e. an annual work plan) capable of being rolled forward over a 5 or 10 year period);
- vii. Ongoing monitoring and remedial measures;
- viii. Timeframe for reviewing the plan; and
- ix. Details of how the aims and objectives of the Plan will be communicated to the occupiers of the development.

The details of the body or organisation responsible for the implementation of the plan should be provided in line with the timescales outlined within Schedule 4 of the S.106 agreement. This should include the details of the company (or companies) to be appointed by the Owner for the purpose of managing and maintaining the works in accordance with the Habitat Management Scheme.

The Scheme shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body (ies) responsible for its delivery (as governed by the Habitat Management Scheme).

The planting and creation of new biodiversity features contained in the Scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner.

The Scheme shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented.

The Scheme shall be implemented in full in accordance with the approved details.

REASON: To provide full details of all landscaping and to enhance the site for biodiversity in accordance with paragraphs 170, 174 and 175 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire District Local Plan 2031 and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

Further Comments from the Parish Council:

North Leigh PC repeats our disappointment that the developers have retained the reduced area of the LEAP on the northern edge of the site and have failed to discuss details of the LEAP with the PC.

We understand that Thames Water have expressed doubts that their systems can cope with extra demand from developments in the parish and the surrounding area and yet have not objected to this development. This adds to our resolve not to withdraw our objections.

Application Number	20/00244/OUT
Site Address	Fairseat Arkell Avenue Carterton Oxfordshire OX18 3BS
Date	2nd June 2020
Officer	Miranda Clark
Officer Recommendations	Approve subject to Legal Agreement
Parish	Carterton Town Council
Grid Reference	427949 E 207008 N
Committee Date	15th June 2020

Application Details:

Demolition of existing dwelling and outbuildings. Construction of residential development comprising of 5 houses and 7 flats together with associated works and formation of new vehicular access. (Outline application with some matters reserved) (Additional Plan)

Applicant Details:

Mr Johnathan Pearman, 2 Swain Street, Watchet, Somerset, TA23 0AA

Additional Representations:

Housing Officer: *They should be looking to provide 35% - 4 homes as affordable.*

Additional suggested conditions to include; car charging points, biodiversity enhancement features for the site, and climate control related features.

The agent has agreed to the affordable housing calculation.

Name and date of committee	Lowlands Area Planning Sub Committee Monday 15 th June
Report number	Agenda item no. 5
Subject	Planning Application No. 19/02809/FUL Erection of 214 dwellings with associated landscaping, surface water attenuation and parking (amended description and plans) Land south of Milestone Road, Carterton
Ward	Carterton South

Additional representations

- 1 A further letter from the agent was sent directly to members of the committee on Wednesday 10th June.
- 2 Biodiversity comments

Following on from my previous responses (the most recent dated 23rd March 2020, addressed to the ecologist, Mr David Watts), I have the following comments with regards to biodiversity.

Biodiversity recommendation: objection due to biodiversity harm and insufficient assessment, mitigation and compensation details for protected species, priority habitats, biodiversity net gain and ecological networks.

Further surveys

The Ecological Impact Assessment report, prepared by Bagshaw Ecology and dated 25th September 2019, details the preliminary assessment of the site. This report identified the potential for protected species including badgers, reptiles, bats and birds. However, the report stated that dense vegetation, such as scrub, meant that not all the site was accessible and therefore further surveys for species such as badgers and bats were not possible. Since then, I have been in correspondence with the ecologist regarding my initial comments (dated 27th February 2020) as well as other issues on the site such as the widespread clearance of vegetation. I understand that badger setts were identified during this clearance and I therefore requested that further surveys were carried out to confirm the extent of the badger activity on site, in addition to the information required for other protected species. Despite the frequent direct correspondence with the ecologist, not all the outstanding issues have been resolved. The further surveys and information that are still required are:

- **Badgers:** the Badger Report and Mitigation Strategy that I understand has been prepared has not yet been formally submitted as part of the planning application. However, this report should detail the full surveys and ensure that the information regarding the territorial boundaries, badger activity and behaviour is adequate enough so that it can be deemed sufficient by the LPA and Natural England. We need to understand how the badgers are currently using the application site, the extent of their social group's territory and what foraging habitats they rely on. The retention of the main sett in the southern boundary wildlife corridor is unlikely to be a successful mitigation strategy unless the badgers still have sufficient foraging habitat and access to these areas. A complete badger survey and mitigation strategy is therefore required before a positive determination of this application.
- **Reptiles:** further reptiles surveys are required as the vegetation will have now grown since the large scale clearance of the site earlier this year. The ecology report also states (in Section 6.1) that the reptiles would be moved to a suitable receptor site. However, the location of this receptor site has not been detailed. A reptile mitigation strategy is therefore required before a positive determination of this application.
- **Great Crested Newts:** through liaising with the ecological consultant, I understand that the applicant wishes to join the great crested newt district licencing scheme. However, this

has not yet been confirmed by the applicant. In order to authorise the development under the Council's district licence, a report and/or a certificate from NatureSpace must be submitted before a positive determination of the application.

- Grassland Survey: the ecology report details the presence of semi-improved neutral grassland on site. Although a species list for this habitat is provided, the ecological value of this grassland has not been adequately assessed. A botanical survey of the grassland should be carried out (now is an optimal time of year) to ascertain whether it is priority habitat and therefore inform a mitigation or compensation strategy. Again, this is needed as part of the application.
- Japanese Knotweed: the ecology report stated that advice would be sought from a specialist Japanese knotweed removal contractor. I have not received any further information on this.

In order to provide sufficient information for the planning application, an updated Ecological Impact Assessment that presents the existing information about the site, incorporates the results of the further surveys, evaluates and assesses this information, carries out an impact assessment and provides full details of all mitigation, compensation and enhancements, is required and this must be submitted before a positive determination of the application.

The impact assessment must include a full justification of the mitigation hierarchy. At the moment there is insufficient information for the LPA to adequately assess all the impacts resulting from the proposed development due to a lack of survey and assessment and an inadequate ecological impact assessment. Therefore, it does not meet the requirements of policy EH3 and paragraphs 170 (d), 174 (b) and 175 (a) of the NPPF.

Biodiversity Net Gain

In line with the requirements of Local Plan Policy EH3, a measurable biodiversity net gain was requested. The biodiversity net gain metric calculations that have been submitted show that there will be an overall loss of biodiversity equating to 42.21 units, which represents a change of -87.74%. In my previous response I recommended that additional biodiversity measures should be incorporated into the proposed scheme to ensure that a biodiversity net gain can be provided. However, with the current proposed site layout it is unlikely that this number of biodiversity units could be provided. A significant change in the site layout to incorporate the creation of additional habitats and green infrastructure features would be necessary.

In my correspondence with the ecological consultant, some council owned land has been identified "400m to the west" of the application site for off-site biodiversity net gain contribution or off-setting. However, I have not received confirmation about this and the specific location has not been accurately identified on a map. From our own research, there is no suitable local authority owned land within 400 metres to the west of the site.

If the provision of the biodiversity offset is agreed in principle, then a survey of the land would need to be carried out in order to identify the current biodiversity baseline on site using the Defra metric. It would then need to be demonstrated that the number of required biodiversity units can be achieved or whether there is still a residual loss.

In order to meet the previous policy requirement of no net loss of biodiversity, the developer would need to find 42.21 units as part of an offset or contribute financially to an off-set delivery provider. However, in order to meet the new policy requirement for a biodiversity net gain, it is recommended that an additional 10% should be added to this figure in line with the proposal in the Environment Bill 2020.

No further information on biodiversity net gain has been provided. Therefore the development would still be in contrary to paragraphs 170, 174 and 175 of the National Planning Policy Framework and the policy EH3 of the local plan.

A full biodiversity net gain strategy must be incorporated within the updated Ecological Impact Assessment, including a justification of the net gain approach based on the principles and good practice guidance (CIEEM, CIRIA and IEMA, 2016 and 2019), a Biodiversity Impacts Plan (map of existing habitats within the site that have been used in the metric calculations) and a Proposed Habitats Plan (map showing the proposed habitats within the site that have been used as part of the metric calculations).

Ecological Networks and Green Infrastructure

The proposed buffer along the southern boundary of the site shown on the amended Site Layout Plan (drawing number D102, revision B) has been increased in width. However, I still do not consider the green spaces on site to be sufficient as these still show fragmentation and therefore would lack ecological function. The green corridor should extend through the central section of the site and ideally be connected to the public open space area. The hedgerow boundaries to the west and east of the site should also be protected and enhanced through long term management as these hedgerows would still qualify as priority habitat. The enhancement of the green infrastructure on site would provide a wildlife corridor for protected species and also act as an informal recreation area for the future residents.

Additional green infrastructure features such as green roofs, the planting of orchard trees, wildflower meadows and tree lined streets should be considered, as these would not only contribute towards the biodiversity units that are required (as stated above), but provide enhancements for the community.

I therefore recommend that the site layout requires further amendment to incorporate an improved approach to green infrastructure and to enhance the ecological network. This would be in line with paragraphs 170 (d), 174 (b) and 174 (d) of the NPPF, and Local plan policies EH3 and EH4.

- 3 Further to the agenda report, the reasons for refusal are as follows:
 1. In the absence of an agreement or commitment to an agreement to secure the provision of: public transport; education; sport and leisure; public art; primary healthcare; and ecological and landscape management the local planning authority cannot be satisfied that the impacts of the development can be made acceptable or adequately mitigated and as such the scheme is likely to give rise to education, transport, sport and leisure, health and ecological harms. The viability assessment shows that the scheme would be viable if it was policy compliant with CA2 of the West Oxfordshire Local Plan 2031 and those harms would not arise. Consequently, the proposal conflicts with West Oxfordshire Local Plan 2031 Policy CA2, EH3, EH5, T3 and OS5 and paragraphs 54 and 56 of the NPPF
 2. The proposed development would result in significant biodiversity harm as insufficient survey, mitigation and compensation details have been submitted to ensure that impacts on protected/priority species and priority habitats are minimised or adequately compensated, and that a biodiversity net gain can be achieved. The green infrastructure provision within the proposal is also deemed to be inadequate. The proposal is therefore contrary to Local Plan policies EH3 and EH4, and paragraphs 170 (d), 174 (b), 174 (d), 175 (a) and 175 (b) of the NPPF.