

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE

Date: 10th December 2018

Report of Additional Representations



**WEST OXFORDSHIRE
DISTRICT COUNCIL**

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Report of Additional Representations

Application Number	16/03873/FUL
Site Address	Land West Of Fruitlands Eynsham Oxfordshire
Date	28th November 2018
Officer	Phil Shaw
Officer Recommendations	Approve subject to Legal Agreement
Parish	Eynsham Parish Council
Grid Reference	442390 E 209788 N
Committee Date	10th December 2018

Application Details:

Erection of five dwellings with associated works.

Applicant Details:

C/O West Waddy ADP
Langford Locks
Kidlington
OX5 1HZ
Oxfordshire

Additional Representations:

Agent correspondence:

Further to our telephone conversation late yesterday afternoon I can confirm the following.

Pye Homes are offering public access through the Fruitlands site to connect the existing village to the wider West Eynsham SDA in which the site sits. Pye are agreeable to securing this access through, ideally, an amendment to the current UU. We are happy to agree the wording of this post Planning Committee on the 10th December.

Pye Homes have also received confirmation that Freeland Parish Council will be writing to support the planning application and the creation of managed woodland habitat in their Parish. Once received I would be grateful if you could ensure that this is reported to Planning Committee.

Biodiversity consultee comment:

Further to my previous comments on the above planning application, I have the following final response.

I confirm that all of the documents that has been submitted with regard to the on-site mitigation and off-site compensation for biodiversity are satisfactory and that I have provided comments on the Unilateral Undertaking / legal agreement with regard to the delivery of the off-site compensation direct to the legal team.

Ecological considerations

The relevant documents are:

- 'Ecological Impact Assessment' dated 23 May 2017 by BSG Ecology
- 'Proposals for the Restoration and Management of a Traditional Orchard' dated October 2018 ("orchard management plan") by Land and Landscape Management Ltd.
- 'Freeland Old Wood Management Plan' dated October 2018 by Land and Landscape Management Ltd.
- 'Freeland New Wood Design and Establishment Plan' dated October 2018 by Land and Landscape Management Ltd.
- Unilateral Undertaking dated 18th October 2018

The Ecological Impact Assessment breaks down the habitats present within the application site (1.3ha) as:

- 0.88ha of mixed woodland (considered to meet definition of Lowland Mixed Deciduous Woodland priority habitat)
- 0.31ha of degraded orchard (not considered to meet definition of priority habitat)
- 0.12ha of ruderal vegetation; and
- hedgerows on the northern and southern boundaries

The EclA therefore defers from the conclusion of the planning appeal for 14/1009/P/OP, which found that the orchard was priority habitat, but could not agree on the woodland.

There would be a loss of approx. 0.46 hectares (ha) of lowland mixed deciduous woodland priority habitat (nearly half of that which is currently present). In order to compensate for this loss, 1.2ha of new woodland will be created (more than twice the size) in Freeland to the north of Eynsham. This is anticipated to achieve "good condition" in 25 years. An existing adjacent woodland owned by the applicant would also be enhanced, creating a woodland unit of approx. 2ha. The restored and new woodlands in Freeland are located approx.. 2.15 miles to the north of the application site.

Using the DEFRA Biodiversity Metric, the Ecological Impact Assessment report concludes that without off-site compensation there would be a loss of 5.3056 biodiversity units and with compensation a net gain of 0.841 units or 3.32% would be provided. This small amount of gain is attributed to the amount of time it will take to re-create and restore the habitats. The calculations for loss and gain are provided in the appendices to the report. These are based on a figure of 0.849ha for the existing woodland in Freeland that would be enhanced as part of the off-site compensation package proposed by the applicant. However, the Unilateral Undertaking refers to the size of this woodland as being 0.68 hectares. I have therefore re-calculated the biodiversity units using the same process. This results in a net gain of 0.666 units or 2.87%.

In a recent consultation of net gain, DEFRA are proposing that the majority of new developments would have to provide a mandatory net gain in biodiversity of at least 10% (using a revised version of the biodiversity metric, which is yet to be released). The net gain in biodiversity provided by the proposed development falls short of this expected level.

The projected net gain in biodiversity must be weighed in the planning balance with regard to the benefits of the scheme for social and economic reasons, and with due regard for other material considerations.

Planning Balance

The existing habitats within the site have been identified as being of value for biodiversity, particularly the orchard habitat in the southern part of the site, which is being retained and enhanced as part of the proposed development. The loss of the woodland/scrub in the northern part of the site will therefore result in biodiversity harm.

I refer back to my previous comments regarding the outcome of the planning appeal for the previous planning application ref. 14/1009/P/OP, which was dismissed. The Inspector found that the vegetation within the application site made a positive contribution to the character and appearance of the area, the site contributed significantly to the rural fringe of the settlement, the site had intermediate to high local ecological value, the site had ecological value in more general terms (not just the presence of orchard priority habitat) and that there would be an unacceptable loss of trees, woodlands or hedgerows that are important for their visual and biodiversity value (conflicted with policy NE6 of the Local Plan at that time). The appeal was dismissed due to the impacts on the character and appearance of the area, the loss of the orchard priority habitat and the harm to the ecological value of the site, which significantly and demonstrably outweighed the social and economic benefits of the scheme. The proposal at that time was for 19 dwellings, which would have resulted in the loss of the majority of the habitats within the site.

As stated in my previous comments, the site is also an important part of the green infrastructure of the village, as it is the only remaining block of significant vegetation and forms part of a natural corridor to the south and west. With the proposed future development of the land west of Eynsham (strategic development area allocated in the recently adopted Local Plan 2031), it is considered that the site would become more significant in buffering the existing residential development to the east and has the potential to become part of an important strategic area of natural green space that would accommodate increased recreational pressure, as well as deliver biodiversity enhancements.

The relevant Local Plan policy for biodiversity is EH3, which states that “The biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity and minimise impacts on geodiversity, including by: ...

- Avoiding loss, deterioration or harm to locally important wildlife and geological sites... UK priority habitats and priority species, except in exceptional circumstances where the importance of the development significantly and demonstrably outweighs the harm and the harm can be mitigated through appropriate measures and a net gain in biodiversity secured; ...
- Taking all opportunities to enhance the biodiversity of the site or the locality, especially where this will deliver networks of biodiversity and green infrastructure and UK priority habitats and species targets, and meet the aims of CTAs...”

It is important to ensure that the planning balance is applied with regard to the proposal for 5 new bungalows with regard to the acknowledged ecological value of the site, the importance of the site as part of the ecological network within Eynsham and its positive contribution to the character and setting of the village. The proposal for 5 bungalows must provide such benefits that the importance of the proposed development significantly and demonstrably outweighs the harm.

I conclude that a minimal contribution towards a net gain in biodiversity would be provided as a result of the proposed development. An increase in 0.666 biodiversity units equates to a net gain of around 3% (from the current value of the site and the off-site woodland).

Recommended conditions

As the Unilateral Undertaking deals with the on-site and off-site mitigation and compensation measures for the woodland and orchard habitats, my recommendations for conditions mainly deal with the potential for biodiversity harm during construction and the additional details that need to be submitted for approval such as a lighting scheme and details of bird and bat boxes.

If minded to approve, the following conditions should be attached to planning consent.

Works in accordance with... reports, drawings and management plans

- a) Works to be carried out in accordance with submitted report

The development shall be completed in accordance with:

- The recommendations in sections 7 and 9 of the Ecological Impact Assessment dated 23 May 2017 prepared by BSG Ecology Ltd;
- Drawing number 560-P02-Rev G (proposed site plan);
- 'Proposals for the Restoration and Management of a Traditional Orchard' dated October 2018 ("orchard management plan") by Land and Landscape Management Ltd;
- 'Freeland Old Wood Management Plan' dated October 2018 by Land and Landscape Management Ltd; and
- 'Freeland New Wood Design and Establishment Plan' dated October 2018 by Land and Landscape Management Ltd.

All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority, and thereafter permanently retained.

REASON: To ensure that woodland, orchard, trees, hedgerows, bats and nesting birds 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 Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

- b) Construction Environmental Management Plan (biodiversity) (needs to be agreed by the applicant)

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan – Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority. The CEMP-B 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-B 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 (bats, nesting birds and hedgehogs), priority habitats (woodland and hedgerows) and the retained orchard are safeguarded in accordance with the Wildlife and Countryside Act 1981 as amended, The Hedgerow Regulations 1997, Circular 06/2005, the National Planning Policy Framework (in particular Chapter 15), Policy EH3 of the Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

- c) CEMP Biodiversity Compliance Report

A report prepared by a professional ecologist or the Ecological Clerk of Works or similarly competent person certifying that the required mitigation and compensation measures identified in the CEMP have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Local Planning Authority for approval within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

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

d) Comprehensive landscaping scheme (standard condition with specific mention of biodiversity enhancements)

Before the erection of external walls, a landscaping scheme shall be submitted and approved in writing by the Local Planning Authority, including full details of all on-site biodiversity enhancements. The scheme shall incorporate the planting of native trees to become new standards of appropriate species and at appropriate locations. The entire landscaping scheme shall be completed by the end of the first planting season following the first occupation of the development hereby approved.

REASON: To provide full details of landscaping within the development 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 Local Plan 2031 and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

e) Landscaping scheme delivery

If within a period of five years from the date of planting of any tree/hedge/shrub that tree/hedge /shrub, or any replacement, is removed, uprooted or destroyed, or dies, or becomes seriously damaged or defective, another tree/hedge /shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure effective delivery of approved landscaping and to secure enhancements for biodiversity in accordance with paragraphs 170, 174 and 175 of the National Planning Policy Framework, Policy EH3 of the Local Plan 2031 and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

f) External lighting details to minimise impact on biodiversity

Before occupation, 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 areas to be lit will not disturb or prevent bat species using their territory and that light spillage into the hedgerows, woodland and orchard habitats will be minimised as much as possible.

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/commuting bats and other nocturnal wildlife 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 Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

g) Biodiversity enhancement details (amended version of standard condition E29)
Before the erection of any external walls, details of the provision of integrated bat roosting features (e.g. bat boxes/tubes/bricks on south or southeast-facing elevations), integrated nesting opportunities for birds (e.g. house sparrow terrace, starling box, swift brick or house martin nest cup on the north or east-facing elevations), insect boxes, hedgehog boxes and gaps under/through fences and walls for hedgehogs shall be submitted to the local planning authority for approval. The details shall include a 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 biodiversity enhancements for bats, nesting birds, insects and hedgehogs 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 Section 40 of the Natural Environment and Rural Communities Act 2006.

Informative

Please note that this consent does not override the statutory protection afforded to species protected under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017, or any other relevant legislation such as the Wild Mammals Act 1996 and Protection of Badgers Act 1992.

Freeland Parish Council comment:

I am writing with reference to the above application that is currently under consideration and due to be heard at the Lowlands Planning Committee on 10th December.

As part of this application, some measures have been put in place to mitigate against the loss of land that is currently allocated as an orchard. These measures include the provision of a managed woodland area in the neighbouring parish of Freeland.

Freeland Parish Council have therefore reviewed the mitigation plans and have concluded that they would be happy to support the woodland aspect of the plans without prejudice to the views of Eynsham Parish Council (ie this does not imply Freeland Parish Council support for the proposals at the Eynsham Fruitlands site).

Eynsham Parish Council Comment:

Eynsham Parish Council objects to the amended application. The Council has objected to the applicant's entire series of applications for this site as there has been no positive support for any of

them from the Eynsham community and the WODC online planning documents show that this amendment is no exception.

The Council reiterates its previous objections dated 10 December 2016 (and posted on the WODC document site 13 December 2016) so far as they are relevant to this application.

In this amended application, the applicant merely removes the most southerly house from the plan and proposes the creation of a complicated orchard to the south of the development, at the cost of the existing biodiversity of the site. The applicant further proposes off-site mitigation for this destruction in the form of land already owned by the applicant in Freeland which would consist of a similar site to the existing Fruitlands site as well as new planting.

The applicant's own ecological impact statement, which is confirmed by the WODC ecologist's report, shows that this scheme would have a negligible impact, and only provide a minimal biodiversity unit gain after being established over many years. The applicant also fails to provide adequate details of this scheme to establish that it would be viable or sustainable in perpetuity. WODC rightly imposed a Tree Preservation Order on the site in January 2015 to preserve the existing woodland and biodiversity. The retention of this order is supported by Eynsham Parish Council.

Since this application was originally lodged the West Oxfordshire Local Plan 2031 has been adopted with the provision of a Strategic Development Area (SDA) for West Eynsham, which includes this site. Also, the revised National Planning Policy Framework 2018 (NPPF) has been introduced. This amended application should be looked at in light of these changes.

As set out above, this proposal does not in any meaningful way protect or enhance a landscape valued by the community or the biodiversity, contrary to NPPF 170 and 174. It results in a loss or deterioration of irreplaceable habitats so should be refused under NPPF 175.

Similarly, the proposal fails the biodiversity enhancement criteria for the SDA (EW2(h)). It fails to conserve or enhance the distinctive nature of this natural landscape contrary to EH2 and it fails to adequately protect or mitigate the impact on the site habitat contrary to EH3.

The five proposed houses could be anywhere in the master plan for the 1,000 dwelling SDA. The environmental and social harm of placing them in the application site significantly and demonstrably outweighs any benefit of consent to this application.

If consent is granted, Eynsham Parish Council reserves the right to request a developer contribution in respect of the development.

Application Number	18/03108/FUL
Site Address	Land At Station Road Bampton Oxfordshire
Date	28th November 2018
Officer	Phil Shaw
Officer Recommendations	Defer
Parish	Bampton Parish Council
Grid Reference	431447 E 203636 N
Committee Date	10th December 2018

Application Details:

New access to agricultural land.

Applicant Details:

Mr Martin Falkner
C/O Agent

Additional Representations:

Highways consultee comment:

Recommendation:

Oxfordshire County Council, as the Local Highways Authority, hereby notify the District Planning Authority that they **do not object** to the granting of planning permission, subject to the following conditions:

Conditions:

G11 The means of access between the land and the highway shall be constructed, laid out, surfaced, lit and drained in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority and all ancillary works therein specified shall be undertaken in accordance with the said specification before first occupation of the dwellings hereby approved.
REASON: To ensure a safe and adequate access.

G17 No additional means of access whatsoever shall be formed or used between the land and the highway.
REASON: In the interests of road safety.

G21 Vision splays shown on the submitted plan shall be provided as an integral part of the construction of the accesses and shall not be obstructed at any time by any object, material or structure with a height exceeding 0.6 metres above the level of the access they are provided for.
REASON: In the interests of road safety.

Comments:

Informal discussion has taken place prior to the submission of this application. The applicant was requested to carry out speed surveys using automated traffic counters (ATCs) either side of the proposed access, and the collected data showed 85%ile speeds of 53.6mph southbound and 41.7mph northbound.

The submitted plan SK03 Rev. D demonstrates that, with the vegetation cut back sufficiently, northbound vehicles are visible from the traffic calming feature, a distance greater than that required for the measured speed. Visibility of southbound vehicles is adequate from the access along the straight section of road.

Road traffic accident data reveals that there have been two incidents close to this proposed access over the last ten years, neither of which could be directly attributable to the road layout. The addition of an access on the outside of the bend that is visible to approaching drivers may tend to reduce speeds slightly if anything, but otherwise will have a negligible effect on highway safety.

The proposed access will require a S278 agreement and associated technical audit. I am informed that reflective warning posts have recently been replaced on the bend, so if any of these will be displaced by the access then they can be replaced in suitable locations as part of the S278 works.

The proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view, therefore I offer no objection.

Highways consultee comment:

My manager has visited the site today and has made the following observations:

“I can’t see a problem with this both in terms of visibility splay (seems to be as indicated on drawing) and in terms of forward visibility to turning traffic. Looks OK as long as vis splay is cleared and kept clear. There is also plenty of warning signage on approach to slow traffic down.”

Therefore, I am happy to maintain my recommendation of no objection.

In my comments below I forgot to say that we would expect to see a hardened surface over the first 10m from the carriageway (or more if longer vehicles are expected). Any gate would also need to be a minimum of 10m back, and would have to open inwards. I would also like to request a further condition, restricting the use of the land to agricultural use only.