



## Supplement for

UPLANDS AREA PLANNING SUB-COMMITTEE - MONDAY, 26TH JUNE, 2023

Agenda No    Item

4.    **Applications for Development** (Pages 3 - 10)

Application No.	Address	Planning Officer
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23/00294/HHD	Upper Farm Cleveley	Mr Emile Baldauf-Clark
23/00295/LBC	Upper Farm Cleveley	Mr Emile Baldauf-Clark
23/00603/FUL	The Homestead Frog Lane	James Nelson
23/01121/FUL	Land At Manor Farm	Peter Morgan

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## WEST OXFORDSHIRE DISTRICT COUNCIL

### UPLANDS AREA PLANNING SUB-COMMITTEE

Date: 26<sup>th</sup> June 2023

#### Report of Additional Representations



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22/02472/FUL	Land At Former Home Close Farm, Shilton Road, Burford, Oxfordshire
23/00294/HHD	Upper Farm, Cleveley, Chipping Norton, Oxfordshire, OX7 4DX
23/01121/FUL	Land At Manor Farm, Chapel Lane, Enstone, Oxfordshire

## Report of Additional Representations

Application Number	22/02472/FUL
Site Address	Land At Former Home Close Farm, Shilton Road, Burford, Oxfordshire
Date	23 <sup>rd</sup> June 2023
Officer	Joan Desmond
Officer Recommendations	Provisional Approval
Parish	Shilton Parish Council
Grid Reference	426563 E 210191 N
Committee Date	26 <sup>th</sup> June 2023

### Application Details

Solar park and energy storage facility together with associated works, equipment and necessary Infrastructure.

#### Applicant Details:

Ecotricity Generation Ltd  
Lion House  
Rowcroft  
Stroud  
GL5 3BY

### Additional Representations

#### Biodiversity Consultation response

No Objection Subject to condition

#### Habitats

Generally habitats on-site have been classified as improved grassland due to their generally species-poor characteristics nonetheless, there are areas of greater intrinsic value, including a calcareous grassland margin associated with a footpath at the eastern edge of the southernmost field and along the proposed access track. These areas will be retained and managed for biodiversity. There is some concern regarding whether calcareous grassland can be retained and enhanced along the access track given the level of disturbance anticipated during the construction and operational phases of the development. The ecologist has taken a conservative approach and stated the condition change is expected to go from poor to fairly poor, with the exception of the calcareous grassland identified within the solar park whereby, the condition is expected to go from fairly poor to moderate as access will be restricted by security fencing. In this instance, this is deemed acceptable.

#### Wintering bird surveys

Surveys undertaken between September 2021 and March 2022 identified farmland birds typical of the Cotswolds (common snipe) but did not identify any wintering bird assemblages of note, therefore wintering birds are not considered to be a constraint to the development. –This assessment is satisfactory.

### Breeding bird surveys

Surveys identified at least one pair of skylark breeding within the area to be occupied by solar panels. The revised landscaping scheme incorporates suitable compensatory skylark scrapes. This is considered to be satisfactory. Other species of concern, include yellowhammer and corn bunting territories. The proposed wildflower mix buffer between the solar panel modules and retained/newly created hedgerows should enable these species to remain on site. Precautionary mitigation outlined for nesting birds within the biodiversity impact and net gain assessment report is satisfactory.

### Great crested newts

The site falls within a green impact zone as per the district licensing maps. There are no suitable breeding ponds present on-site and the ecologist has concluded that ponds present within the active quarry appear to be ephemeral puddles and devoid of vegetation. As a result, it is unlikely great crested newts would exploit these waterbodies however, despite the unfavourable conditions, TVERC has returned recent records (2021) of breeding great crested newt from these ponds immediately north in the quarry. There is good connectivity between the identified breeding ponds and the site however, given the level of development proposed, it is felt a precautionary working method statement, detailing reasonable avoidance measures and mitigation measures is sufficient to ensure the species concerned is maintained at a favourable conservation status within its natural range.

### Reptiles

Habitats on-site were considered suitable for reptile species, including the drystone boundary walls, scrub, south-facing long grasses and herbaceous vegetation. TVERC returned 5 reptile records for common lizard, the ecologist noted the drystone wall may provide suitable habitat for this species. A precautionary working method statement will need to be prepared and submitted to the LPA outlining reasonable avoidance measures and mitigation measures to ensure reptiles are safeguarded from the development.

### Badgers

No setts or potential setts were identified within the site however, a badger latrine was noted on the periphery of the northern field, adjacent to the site of an artificial sett, on the quarry land to the north. The proposed development will not have an impact on the identified artificial sett however, security fencing will prevent this species from foraging in the site. The ecologist concluded that security fencing was unlikely to impact the social group present as there are alternative foraging areas available in the wider landscape. Precautionary mitigation outlined within the biodiversity impact and net gain assessment report is satisfactory.

### Bats

None of the trees were considered to offer features with potential for roosting bats. During the static bat detector surveys, common pipistrelle bats were the most frequently recorded species, followed by soprano pipistrelle bats. The bat detectors recorded relatively few recordings of species of greater conservation concern. Overall, as the proposal will retain linear boundary features, it is felt bats are unlikely to be affected by the proposed development.

### Other mammals

Brown Hare was recorded during the surveys, this is a priority species and should be safeguarded from the construction phase. Precautionary mitigation outlined within the biodiversity impact and net gain assessment report is satisfactory.

### Biodiversity net gain

The applicant has demonstrated a measurable biodiversity net gain can be achieved on-site. The proposed habitat enhancement and creation scheme will result in an increase of 76.47% in habitat units and 47.83% in hedgerow units. A biodiversity management and monitoring plan is recommended to ensure on-site biodiversity net gain, as detailed in the submitted biodiversity net gain report is secured and maintained for the required 30-year period. The submitted landscaping plan (drawing number P20-2369\_11) outlines the species to be incorporated into the scheme, ground preparation and early establishment management. – This is satisfactory. In addition, I am pleased to see the proposed site will incorporate skylark scrapes and kidney vetch as biodiversity compensatory and enhancements, targeting local species, including small blue butterflies.

### Lighting

Bats, great crested newts, badgers and nesting birds have been identified exploiting the wider landscape. As a result, any external lighting should be sensitively designed to minimise light spill towards retained boundary features, which may be exploited by these species.

### **Archaeology Consultation response**

Thank you for consulting us on this application; the site has been subject to an archaeological evaluation which recorded limited results. The approved archaeological evaluation report from Cotswold Archaeology has been submitted with this application. There are no further archaeological constraints to this scheme.

Application Number	23/00294/HHD
Site Address	Upper Farm, Cleveley, Chipping Norton, Oxfordshire, OX7 4DX
Date	23 <sup>rd</sup> June 2023
Officer	Mr Emile Baldauf-Clark
Officer Recommendations	Refuse
Parish	Enstone Parish Council
Grid Reference	438847 E 224145 N
Committee Date	26 <sup>th</sup> June 2023

### Application Details

Internal and external alterations to main house and outbuildings including double storey rear extension to main house and proposed roof lights to garage.

### Applicant Details

Weini Craughan  
Upper Farm  
Cleveley  
Chipping Norton  
Oxfordshire  
OX7 4DX

### Additional Representations

#### Re-consultation Comments from the Newt Officer:

This planning application is for 'Internal and external alterations to main house and outbuildings including double storey rear extension to main house and proposed roof lights to garage'.

- The development falls within the amber impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the amber impact zone, there is suitable habitat and a high likelihood of great crested newt presence.
- There are 3 ponds within 500m of the development proposal.
- There is direct connectivity between the development and surrounding features in the landscape.

### Summary

The applicant has provided an ecological report, Preliminary Ecological Appraisal, Upper Farm, Cleveley, Chipping Norton, OX7 4DX, Cotswold Environmental, May 2023. Within this report it states that:

A precautionary working approach should be taken, as outlined in section 4, and the reasonable avoidance measures outlined in section 5.

## Conclusion and recommendation for conditions:

I am satisfied that if this development was to be approved, it is unlikely to cause an impact on great crested newts and/or their habitats.

West Oxfordshire District Council considers it would be unreasonable to require the applicant to submit a survey because this could be considered disproportionate to the scale and the likely impacts of the development. However, the application site lies within an amber impact zone as per the modelled district licence impact map, which indicates that there is highly suitable habitat for GCN within the area surrounding the application site. Therefore, I recommend the use of the following informative:

*The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.*

As there is some sub-optimal habitat present on the development site and there is a small risk of GCN to be using the site for commuting the reasonable avoidance measures outlined within Preliminary Ecological Appraisal, Upper Farm, Cleverly, Chipping Norton, OX7 4DX, Cotswold Environmental, May 2023 should be followed.

*Reasons: To safeguard biodiversity as set out by the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, NPPF Chapter 15 (Paragraphs 174, 179, 185), Circular 06/2005).*

## Reasonable Likelihood of Protected Species

Permission can be refused if adequate information on protected species is not provided by an applicant, as it will be unable to assess the impacts on the species and thus meet the requirements of the National Planning Policy Framework (2021), ODPM Circular 06/2005 or the Conservation of Habitats and Species Regulations 2017 (as amended). The Council has the power to request information under Article 4 of the Town and Country (Planning Applications) Regulations 1988 (SI 1988.1812) (S3) which covers general information for full applications. CLG 2007 'The validation of planning applications' states that applications should not be registered if there is a requirement for an assessment of the impacts of a development on biodiversity interests.

Section 99 of ODPM Circular 06/2005 states:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and / or planning obligations before permission is granted."



## **Great crested newts**

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local Planning Authorities have a statutory duty in exercising of all their functions to 'have regard, so far is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity', as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC). As a result, GCN and their habitats are a material consideration in the planning process.

## **Lifespan of Ecological Reports and Surveys**

Validity of ecological reports and surveys can become compromised overtime due to being out-of-date. CIEEM Guidelines for Ecological Report Writing (CIEEM, 2017) states, if the age of data is between 12-18 months, "the report authors should highlight whether they consider it likely to be necessary to update surveys". If the age of the data is between 18 months to 3 years an updated survey and report will be required and anything more than 3 years old "The report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated".

Application Number	23/01121/FUL
Site Address	Land At Manor Farm Chapel Lane Enstone Oxfordshire
Date	23.06.23
Officer	Peter Morgan
Officer Recommendations	Approve
Parish	Enstone
Committee Date	26 <sup>th</sup> June 2023

**Application Details:** Formation of new field access onto A44.

**Applicant Details:** Mrs R Catling

#### **Amendments to the officer recommendation**

In respect of condition 5, the recommended wording is changed as follows:

The access shall not come into use until the parking area and driveways have been surfaced and arrangements made for all surface water to be disposed of within the site curtilage in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

**REASON:** To ensure loose materials and surface water do not encroach onto the adjacent highway to the detriment of road safety.

This is removing the incorrect reference to dwelling.

In respect of condition 6, the recommended wording is changed as follows:

The access hereby permitted shall not be used between 8:30am-9:15am and 2:45pm-3:30pm Mondays to Fridays.

**REASON:** To avoid peak pedestrian movement times in the interest of highway and pedestrian safety.

This is to take account of the safe return of pedestrians from the school run.

Officers are also recommending that the following informative is included on the decision:

#### **NOTE TO APPLICANT:**

The approval of this access does not imply that consent for anything other than agricultural use will be allowed in the field.