

WEST OXFORDSHIRE DISTRICT COUNCIL

UPLANDS AREA PLANNING SUB-COMMITTEE

Date: 19 August 2024

Report of Additional Representations



**WEST OXFORDSHIRE
DISTRICT COUNCIL**

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24/01272/OUT	Land (E) 426217 (N) 218672, Church Road, Milton Under Wychwood
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Report of Additional Representations

Application Number	24/01272/OUT
Site Address	Land (E) 426217 (N) 218672 Church Road Milton Under Wychwood Oxfordshire
Date	16 August 2024
Officer	Stephanie Eldridge
Officer Recommendations	Refuse
Parish	Milton Under Wychwood Parish Council
Grid Reference	426640 E 218501 N
Committee Date	19 August 2024

Application Details:

Outline application for erection of 16 no. dwelling houses (8 no. affordable and 8 no. self-build dwellings) with associated works including access, provision of landscaping, public open space and new footpath links.

Additional Representations:

Following the publication of the Officer's Report drafted on the 7th August 2024, it was noted that the Council's Ecologists response had not been included in the 'Consultation Responses' section by mistake. Please see a copy of their response in full below:

Relevant reports and drawings:

- BNG Calculations report by 4 Acre Ecology dated 03/05/2024 Issue no. 1
- Statutory Biodiversity Metric Calculation Tool completed by Mark Satinet and dated 03 May 2024
- Biodiversity Net Gain Statement dated 31/05/2024
- Preliminary Ecological Appraisal report by 4 Acre Ecology dated 03/05/2024
- Planning Statement by JPPC dated May 2024

Biodiversity Recommendation:

Insufficient information provided on biodiversity net gain and great crested newts – potential refusal reason.

Comments:

Biodiversity Net Gain

Biodiversity Net Gain

I have to question the achievability of the proposal to enhance existing modified grassland to Lowland Meadow priority habitat of moderate condition within a residential development site. There is no justification for this within the metric or the associated BNG Calculation report by 4 Acre Ecology. There are many reasons why this is unlikely to be feasible, including recreational pressure, dog fouling and pollution. Ecologically, creating priority grassland habitat on residential development is likely to fail. This therefore needs to be re-considered by the applicant.

The SUDS attenuation feature needs to be entered into the Statutory Biodiversity Metric Calculation Tool as 'SUDS' rather than "temporary lakes ponds and pools" habitat type to reflect the type of feature that will be created.

A Phase I Plan (baseline habitats) and a Biodiversity Enhancements plan (post-intervention habitats) for the application site have been submitted as part of the BNG Calculations Report [see Figure 1 and Figure 2). However, the Biodiversity Enhancements plan is still marked as "draft" and does not correlate with the habitat types in the statutory biodiversity metric calculation tool, so they cannot be cross-referenced. The "proposed landscape plan" in Figure 2 is titled 'biodiversity enhancements' and refers to "wildflower turf", "long grass and wildflowers" and "community green space with areas of long grass and wildflowers".

It is unclear where the Lowland Meadow priority habitat is expected to be enhanced within the site, as its location will have a fundamental bearing on its likely success. With regard to the comments above, I recommend that this type of habitat is unlikely to be achievable. The most reasonable and achievable outcome for the grassland is more likely to be 'Other Neutral Grassland' of moderate condition. I have amended the submitted metric and this reduces the BNG result for habitat units (area) to 33.09%, which is still above the minimum 10% statutory objective.

I have also amended the 'strategic significance' to "area/compensation not in local strategy/no local strategy" for all of the habitats in the metric. The site is not located within a Conservation Target Area or the draft Nature Recovery Network for Oxfordshire. This means that the habitat units change is 39.39% and hedgerow units change is 32.01%.

The Biodiversity Enhancements Plan also refers to an orchard, attenuation feature and wildlife pond. The orchard is not included in the metric, unless the fruit trees have been included as individual trees separately, however, this is unclear.

All of the baseline and post-intervention habitats should be clearly labelled so that they can be cross-referenced with the habitat parcels included in the metric. I am unable to do this at this time.

No details about how the habitats can be retained, enhanced and/or created on site have been submitted with regard to the LPA being certain that the statutory Biodiversity Gain objective can be achieved, and therefore that the associated Biodiversity Gain Plan condition could be discharged.

I note that the BNG Statement submitted with the application confirms that the onsite BNG proposals can be considered "significant". However, I disagree that the proposals comply with the CIEEM Biodiversity Net Gain Good Practice Principles for Development. I assume that the answer to question 3.2 in the BNG Statement regarding Rule 4 should actually be 'No' (the box under Yes is currently checked).

I note that the Planning Statement refers to the provision of BNG through an increase in habitat units by over 100% and hedgerow units increasing by over 60%. This is not accurate. The results of the metric calculations are 65% increase in habitat units and 32% increase in hedgerow units. These are still more than the minimum 10% required in the Environment Act 2021, but the proposals are questionable regarding their likely success.

Amendments to the biodiversity net gain proposals are therefore required or this could form a reason for refusal of the application as insufficient information has been submitted to demonstrate the biodiversity gain objective can be met and the biodiversity gain condition can be discharged successfully in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Preliminary Ecological Appraisal

Section 5.7 of the report states that the field survey was undertaken on 15th March 2022, but earlier on in section 2.4 it states that the survey was commissioned on 6th February 2023. I therefore assume that the year is wrong, and the field survey was carried out on 15th March 2023.

Great Crested Newts

The Preliminary Ecological Appraisal report notes that there are 4 no. ponds within 500 metres of the site and 1 record of this species being present within this area (this is located approx. 290 metres to the north and is connected to the application by hedgerows). There is a large rubble pile (10 metres by 4 metres) on site, which is beginning to vegetate over, ruderal vegetation near the existing stable building and unmanaged grassland in the northern field. In section 6.6 of the report these are identified as suitable terrestrial habitat for great crested newts. However, the report only recommends precautionary working methods. This is insufficient.

The hedgerows around the site also provide suitable terrestrial habitat for newts and no reference is made to the impact risk zones mapped by NatureSpace as part of the District Licensing Scheme, for which the council holds a District Licence. The application site is located within a green impact risk zone, which indicates that there is some suitability for great crested newts (but it is lower risk than the amber and red impact risk zones). The site is located just outside the 250 metres zone for the nearby ponds.

I disagree that the site is of "low risk" for great crested newts. If there were no rubble pile and ruderal vegetation areas, then the main feature of interest would be the hedgerows. As the majority of these are being retained, the risk would be reduced further. The rubble pile offers amphibians a suitable hibernation feature in the area. Depending on the suitability of the other ponds within 500 metres, this could be significant to the local population.

The report does not take account of the loss of the suitable terrestrial habitats on site for this species. I therefore assume that there is suitability for great crested newts within the site, they are likely to be present and therefore either further survey of the nearby ponds within 500m or the District Licensing Scheme should be used to ensure that this protected species is adequately mitigated and compensated for.

Reptiles

Potential for reptiles is also identified, but no survey was carried out. Precautionary working methods are also recommended for this species group because there is a lack of records within 2km of the site. A lack of records does not mean that reptiles are absent from the area, they are only reflective of the lack of survey effort. There is potential for slow worms and common lizards on site and this needs further consideration.

Bats

The existing stable building on site is assessed as having negligible potential for roosting bats. I confirm that no further survey for roosting bats is required.

Nesting Birds

Wood pigeons were identified to be nesting in one of the hedgerows (no 2) on site. There is potential for other species to be breeding on site as well. House sparrows were observed to be present on site. The precautionary working method statement in the Preliminary Ecological Appraisal is an acceptable approach.

Otters

There is a record 45 metres from the site on the Littlestock Brook. The report concludes that they are absent from the application site and they are not considered further. I agree that it is unlikely that this species would be affected by the proposals due to the buffer that is present to the nearby watercourse.

Hedgerows

Six sections of hedgerow were recorded, but only 5 are described, with the 6th boundary comprising a post and wire fence. The majority of these will be retained and enhanced and new hedgerows created as part of the landscaping and BNG proposals for the site. This is welcomed.

1. Northern boundary of SW field
2. Southern boundary of SW field
3. Northern side of horse paddock
4. Northern boundary of site
5. Eastern boundary of site

If the above issues cannot be resolved, then the refusal of the application must be considered for the following reasons:

Insufficient information has been submitted to demonstrate the biodiversity gain objective can be met and the biodiversity gain condition can be discharged successfully in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Insufficient information has been submitted, in particular, ecological survey information, assessment and/or mitigation to enable the LPA to fully assess the extent to which species and habitats, including great crested newts and reptiles, which are protected under the WCA 1981 (as amended), The Conservation of Habitats and Species Regulations 2017 (as amended) or listed as Species of Principal Importance for biodiversity conservation under Section 41 of the Natural Environment and Rural Communities Act 2006 (as amended) may be affected by the proposed development. The LPA is therefore unable to fully assess the development in respect of the requirements of the NPPF (in particular Chapter 15), the Planning Practice Guidance; West Oxfordshire District Council's Local Plan Policy EH3; and ODPM Circular 06/2005. The LPA is also unable to fully assess the proposals in the light of the 3 derogation tests, as described in ODPM Circular 06/2005 and The Conservation of Habitats and Species Regulations 2017 (as amended).