

DEVELOPMENT MANAGEMENT CONSULTATION

To: Ecologist
Bleak Hall
Milton Keynes

My ref: 19/01818/OUT

Date: Updated comments

Application Type: Major

Outline application including access for the development of the site for employment uses, comprising of warehousing and distribution (Use Class B8) floorspace (including mezzanine floors) with ancillary B1a office space, general industrial (Use Class B2) floorspace (including mezzanine floors) with ancillary B1a office space, a small standalone office (Use Class B1) and small café (Use Class A3) to serve the development; car and HGV parking areas, with earthworks, drainage and attenuation features and other associated infrastructure, a new primary access off Brickhill Street, alterations to Brickhill Street and provision of Grid Road reserve to Brickhill Street with appearance, landscaping, layout and scale to be determined as reserved matters.

At: Land At Brickhill Street, South Caldecotte, Milton Keynes MK17 9FE

Milton Keynes Council have received the above planning application and would be grateful for any comments you may have. If you have any comments, please provide these electronically by. If for any reason a reply is not possible within this period of time, please make the Case Officer aware should you wish to make any comments, otherwise it will be assumed that you have no comments to make.

Please note, comments should only be made in regards to the material planning considerations of the application. Comments should relate to your specialist area of advice and make reference to the policies and guidance outlined in National Policy, Planning Legislation, the Development Plan, which includes Plan:MK and relevant Neighbourhood Plan (if any), and Supplementary Planning Documents.

The documents relating to this application can be accessed online using the Public Access for Planning webpages (www.milton-keynes.gov.uk/publicaccess), or by using the Information@Work system.

From: **David Buckley**

DEVELOPMENT MANAGEMENT CONSULTATION

From: Diane Evans, Ecologist	Our Ref:
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Application no: 19/01818/OUT

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At: Land At Brickhill Street, South Caldecotte, Milton Keynes, MK17 9FE,

PLEASE COMPLETE THE BELOW FORM AND RETURN TO:



CONSULTEE ADVICE

Based on the information provided (please tick one):

- | | |
|--|---|
| <input type="checkbox"/> No Objection | <input checked="" type="checkbox"/> Amendments/additional information requested |
| <input checked="" type="checkbox"/> Objection* | <input type="checkbox"/> Comments Only |

* Where the Consultee believes their objection cannot be overcome by any amendments or additional information.

RELEVANT POLICY (if known – Comments should relate to the policies and guidance outlined in National Policy, Planning Legislation, the Development Plan, which includes Plan:MK and relevant Neighbourhood Plan (if any), and the Supplementary Planning Documents)

- | |
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| <ul style="list-style-type: none">- Plan: MK Policy NE1, NE2, NE3, NE4, NE5, DS5- NPPF 170, 174, 175, 180.- Planning Practice Guidance updated 21 July 2019: Natural Environment paragraphs 19, 20, 24, 25- ODPM Government Circular 06/2005: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM Part IV – Conservation of Species Protected by Law |
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- Natural Environment and Rural Communities Act 2006 Section 41: Species & Habitats of Principal Importance in England.
- Forward to 2020: Buckinghamshire & Milton Keynes Biodiversity Action Plan.
- Biodiversity and Planning in Buckinghamshire V.2 (2014).
- RTPI Practice Advice, Biodiversity in Planning, November 2019
- CIEEM Advice Note on the Lifespan of Ecological Reports & Surveys (2019).
- Institute of Lighting Professionals Guidance Note 8 – “Bats and Artificial Lighting” (2018).
- English Nature Badgers and Development (2002).

KEY CONSIDERATIONS (These should relate solely to your specialist area of advice and be in bullet point form as a summary)

- The proposed development is located within a designated area of Open Countryside.
- The proposed development site is identified for employment on the strategic site allocations map.
- The site contains biodiversity features that have the potential to provide wildlife habitats.
- The proposal fails to demonstrate that it would not have an adverse effect on biodiversity on or nearby the site.
- The proposal fails to demonstrate it would not have an adverse effect on designated sites.
- The development proposal will impact on species or habitats of protected and priority status.
- The development proposal fails to demonstrate a measurable net gain for biodiversity.
- The proposal fails to demonstrate compliance with local and national biodiversity policies.

CONSULTEE ASSESSMENT (Detailed Consultee assessment)

The proposed development site is located within an area of Open Countryside. Development of Open Countryside is contrary to Plan:MK policies NE5 and DS5. However, should development of designated Open Countryside be considered acceptable, the following should be taken into consideration:

It is the responsibility of the developer to demonstrate that development of the site would not have a significant adverse effect on flora, fauna or habitats on or nearby the site.

The proposed development site is identified for employment on the strategic site allocations map.

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However, the site allocation should not take precedence over the developer's responsibility to preserve and where possible, enhance important and priority habitats, for the development to result in net gains for biodiversity or for the developer to fully engage with the mitigation hierarchy in conformity with both local and national policies. It is not acceptable for any development proposal to fail to comply with local and national biodiversity targets and policies.

Planning Practice Guidance was updated in July 2019 and contains the following in paragraph 19 which describes the Mitigation Hierarchy:

Avoidance Can significant harm to wildlife species and habitats be avoided; for example by locating on an alternative site with less harmful impacts?

Mitigation Where significant harm cannot be wholly or partially avoided, can it be minimised by design or by the use of effective mitigation measures that can be secured by, for example, conditions or planning obligations?

Compensation Where, despite mitigation, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent or greater value of biodiversity?

Where a development cannot satisfy the requirements of the 'mitigation hierarchy', planning permission should be refused as indicated in paragraph 175 of the National Planning Policy Framework.

Paragraph 24 of the same document refers to biodiversity net gain and the mitigation hierarchy:

Biodiversity net gain complements and works with the biodiversity mitigation hierarchy set out in NPPF paragraph 175a. It does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Local planning authorities need to ensure that habitat improvement will be a genuine additional benefit, and go further than measures already required to implement a compensation strategy.

The indicative layout provides little evidence that the developer has attempted to retain existing Habitats of Principal Importance or Priority Habitats. Development proposals must demonstrate compliance with the mitigation hierarchy within their proposals. Impacts on biodiversity shall be avoided in the first instance, such as developing a less biodiverse-rich site or avoiding the most biodiverse-rich areas within the development zone. The next step would be investigating a reduction in impacts by reducing the scale of the development by employing measures such as focusing the development on low value agricultural land within the site. If this is not considered possible after thorough investigation of alternatives then full, proactive and appropriate measures must be evidenced to mitigate and compensate for impacts on biodiversity. Every reasonable effort should be made to ensure biodiversity net gains are achieved within the development site itself. Off-site offsetting is only acceptable as an absolute last resort and then only if the developer is able to demonstrate the mitigation hierarchy has been fully employed before this decision is made.

The developer should seriously consider modifying the layout to retain and incorporate existing features with wildlife potential, particularly those which are identified as Habitats of Principal Importance and/or Priority Habitats. The retention of as many existing low quality but high distinctiveness/value habitats as possible and their subsequent restoration to high quality habitats will minimise the overall impact on biodiversity on the site and in conjunction with new high quality

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habitat creation in other areas of the development has the potential to result in the provision of a net gain for biodiversity within the development.

NPPF 174 b) quite clearly refers to the conservation, restoration and enhancement of priority habitats, a number of which currently exist on this site and which must be taken into consideration. Hedgerows, ponds, lowland meadow, woodland and orchard exist on the site and are all priority habitats. This has been verified by the content of the ecology report. These priority habitats should be retained and incorporated into the layout in order to minimise any adverse effects caused by development. Restoration and enhancement of these habitats in addition to the creation of new on-site habitats have the potential to make a significant contribution towards the development's ability to result in a net gain for biodiversity without the need to consider off-site offsetting.

National and local Biodiversity Action Plan targets relate to priority habitats such as those mentioned previously. In 2011, the Department for Environment, Food and Rural Affairs (Defra) published Biodiversity 2020: A Strategy for England's wildlife and ecosystem services. Outcome 1b states: 'More, bigger and less fragmented areas for wildlife, with no net loss of priority habitat and an increase in overall extent of priority habitats by at least 200,000 ha.' In order to achieve this target, Forward to 2020, the Buckinghamshire and Milton Keynes Biodiversity Action Plan, seeks to increase areas or restore existing poorly managed areas of priority habitats to good condition by an overall amount of 20% locally, though each habitat type has its own individual target.

Lowland Meadow is both nationally and locally rare and of significant biodiversity value, especially to pollinators and Red List ground-nesting birds such as Yellowhammer and Skylark which are named as key species in the local BAP, Forward to 2020. It is estimated that Milton Keynes holds a total of just 9.5 hectares of Lowland Meadow so the loss of some 6 hectares would result in an overall reduction of more than 60% of this valuable habitat from the borough. This loss is unacceptable and is contrary to both local and national policies. Retention and restoration of this increasingly rare habitat would not only prevent a loss but would make a significant contribution towards achieving the overall target gain for the borough. Details of management proposals and habitat creation or enhancement should be detailed in the applicants Biodiversity Enhancement Scheme. **The local BAP target is to increase Lowland Meadow by 33%.**

The hedgerow pattern across the site is largely the same as shown on the 1880 map. Some hedgerows have been removed from the northern part of the site but others, particularly in the southern half of the site appear to be in exactly the same locations as in 1880, indicating historic hedges in excess of 140 years old. A reduction in mature hedgerows will have a significant adverse effect on breeding and overwintering birds, bat species, small mammals, etc.

Hedgerows are a Priority Habitat under the Bucks & MK BAP as well as a Habitat of Principle Importance under the NERC Act 2006. They hold significant biodiversity value through the provision of nesting, foraging, commuting and pollination opportunities as well as wider environmental benefits such carbon sequestration and preventing soil erosion. They are of direct value to almost all terrestrial fauna within the borough. The local BAP target is to create or restore 10 km of new hedgerow per year. The on-site hedgerows should be retained and incorporated into the layout wherever possible. Restoration and enhancement to create higher quality habitat increase the potential to provide on-site net gains for biodiversity. If the removal of hedgerows is essential for the successful operation of the development, this should only be in short sections and should ensure that connectivity within the site and beyond is maintained.

The ecology report discusses trees and states that many of them are likely to be of substantial

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size and may be of considerable age. However, although they are frequently described as mature or over-mature, there is no discussion about whether any of these trees contain veteran features or might qualify as veteran trees, which are afforded protection as they are considered to be irreplaceable habitat which by definition, cannot be replaced or compensated for. The potential for any of the on-site trees to have veteran tree status should be thoroughly investigated prior to any significant tree works or their removal. The removal of three mature Black Poplars considered to have district level value is proposed. Although replacement Black Poplar planting is also proposed, any newly planted trees will take many years to provide the same biodiversity value to the mature trees removed. A traditional orchard, also a Habitat of Principal Importance nationally and a declining Priority Habitat locally exists on the site. If the loss of the orchard to the development is unavoidable, it should be replaced with clusters of fruit trees that have the potential to develop the features of traditional orchards rather than individual fruiting species dispersed throughout the site. Orchard management should be included in the habitat management plan.

Ponds, which are a Habitat of Principle Importance as well as a Priority Habitat locally exist on the site. The local BAP target is to create 50 new ponds a year in addition to the numbers that already exist. Ponds are of significant biodiversity value and have direct benefits to wildlife and sustainable flooding management. Wherever possible, development proposals should aim to retain and enhance existing ponds to benefit wildlife and achieve a net gain for biodiversity. Where ponds are retained, their long term management should improve their status and be secured through the Biodiversity Enhancement Scheme. If ponds must be lost, damaged or degraded to facilitate development, proposals to reinstate must seek to ensure a habitat of higher quality is provided as compensation. Pond design should be completed by a suitably qualified ecologist, with particular care given to preventing pollution and ensuring a buffer of transitory habitat is in place around the pond to enhance overall ecological quality. Further to this, pond loss should only be permitted where ecological information shows that it is not a habitat utilised by any protected species or that appropriate mitigation measures have been adopted.

Development proposals, wherever possible, should seek to retain and enhance habitats through a conservation focused management plan. This will aid in increasing the restoration of dwindling priority habitats as well as contributing to biodiversity net gain. Where a habitat must be lost, reduced or damaged to facilitate development, the developer should seek to reinstate a similar habitat of higher ecological quality. Details of habitat creation or restoration/enhancement and management proposals should be detailed in the Biodiversity Enhancement Scheme and Habitat Management Plans.

The proposed development is located within the A5, River Ouzel and Woburn – Bletchley Wildlife Corridors. In Milton Keynes, Wildlife Corridors are recognised as being important habitats which are afforded the same importance as Local Wildlife Sites, protected by Plan:MK policy NE1. They are a linear habitat safeguarded from excessive development pressure to allow the movement of flora and fauna throughout the built environment. It is likely that their immediate area has higher species richness and diversity and this presents significant opportunity for development to be completed in a manner than enhances biodiversity through the provision of wildlife features. However, Wildlife Corridors become subject to edge effects, more so when they are incorporated into developments. Therefore it is essential that retained or newly created Wildlife Corridors are sufficiently wide in order to continue to provide enough undisturbed space for the feature to continue to provide benefits for wildlife.

Caldecotte Lake immediately to the north of the proposed development site is a designated Local Wildlife Site and has been successfully incorporated into a development. Local Wildlife Sites have high ecological value and it is likely that sites in close proximity will also have higher species

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richness and diversity. The provision of sufficiently wide Wildlife Corridors strategically located within this development will provide significant benefits for biodiversity.

Local Planning Authorities have a duty under the NERC Act 2006 to have regard for the conservation of biodiversity in all our functions. Further to this, the NPPF is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieve net gains for nature, and that a core principle for planning is to contribute to conserving and enhancing the natural environment.

The requirement for development proposals to demonstrate a biodiversity net gain is secured in Policy NE3 of Plan: MK. Under this policy, where development results in significant harm to biodiversity, planning permission should be refused. Proposals to provide net gain shall seek to protect, restore and create opportunities for protected and priority species.

If, after all other avenues have been thoroughly investigated, development would result in a biodiversity loss, off-site offsetting may be considered and there are a number of options for its provision. Offsetting may be provided on other land that is under the control of the developer and managed in an appropriate manner that maintains optimum biodiversity in perpetuity. The developer may nominate a third party such as the Environment Bank or a charitable trust to provide and manage the offset in perpetuity on their behalf. If neither of these options are possible, the developer may request the local authority takes the responsibility for the provision of the offset on payment of an appropriate fee that covers the creation and suitable management of the habitat for the benefit of biodiversity in perpetuity. However, the local authority is not bound to agree to take the obligation, particularly if any sum offered is inadequate for the local authority to be confident the offset can be provided and maintained in an appropriate manner in perpetuity without subsidy from the public purse. Any off-site offsetting shall be secured by a S106 agreement and therefore, all relevant supporting documents shall be submitted to the LPA and agreements shall be in place prior to determination of the proposal.

Plan:MK Policy NE3 requires all development proposals of five or more dwellings or non-residential floor space in excess of 1000 sq. m to provide a completed DEFRA or locally approved Biodiversity Impact Assessment Metric calculation to demonstrate the impact on biodiversity and demonstrate the ability of the development to result in net gains in biodiversity in accord with both local and national policy. The metric must be completed by a suitably qualified ecologist and submitted in support of the planning application. Planning permission should not be granted in absence of the submission of this document for assessment by the LPA.

To demonstrate that proposals can physically deliver a net gain for biodiversity a Biodiversity Enhancement Scheme is required. The scheme proposal must include provision for priority or protected species and habitats relevant to the site. This shall include the integration of specific features such as Hedgehog Passes/Domes, Bird & Bat Bricks within the fabric of buildings, soft landscaping of biodiversity value, green or brown roofs, etc. The BES shall include rationales for the *enhancement* of any retained habitats on site alongside proposals for creation of new habitats. Particular consideration shall be given to the coherency and connectivity of local ecological networks. The safe and free movement of wildlife across the landscape is pivotal in ensuring biodiversity is resilient within the built environment. The BES must detail the specifications, locations and ongoing maintenance of any habitats or features installed to provide net gain for biodiversity and must be informed by a suitably qualified ecologist.

Lighting and disturbance for a development of this scale has the potential to disrupt foraging and commuting bats. A lighting scheme should be completed in line with the most recent guidance published by the Institute of Lighting Professionals and Bat Conservation Trust. The scheme must

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show the locations of Bat features and habitats overlaid with locations of lighting features, intensity and spill. Any temporary or permanent external lighting required during the development phase should be low level and sensor operated with short duration timers.

In order to fulfil our statutory duties as an LPA to consider the impacts of development on biodiversity, ecological data supplied in support of planning applications must hold a high degree of validity. This ensures compliance with the ODPM guidance, NPPF and Policy NE2 of Plan: MK. Validity of information diminishes over time or following significant changes to the surveyed site. MKC generally considers ecological data to be valid for a maximum of two years, or until significant site changes occur – whichever is sooner. This is in line with advice published by the Chartered Institute of Ecologists and Environmental Managers (CIEEM, 2019). Any surveys that rely on data in excess of 2 years old at the commencement of the development will be considered to be past their “shelf life” and must be updated prior to any works on site that may affect habitats.

RECOMMENDATION (Please draft any suggested reasons for refusal or suggested conditions including reference to relevant Planning Policy. If amendments or additional information is required please make your requirements clear)

The following supporting documents shall be submitted to the LPA for assessment prior to determination of this application;

- A Biodiversity Impact Assessment calculation using the LPA approved metric demonstrating the impact on the site in biodiversity units. This document must not be abridged and must be submitted in its entirety.
- A Biodiversity Enhancement Scheme that demonstrates a measurable net gain for biodiversity.
- A habitat management plan for on-site biodiversity features.
- A habitat management plan that demonstrates any off-site offsetting will be appropriately managed in perpetuity or if that is not possible, for a minimum of 30 years.

When this application is suitably ready to be determined and if planning permission is granted, the following must be secured through condition;

- Trees shall be assessed for veteran tree features prior to their removal or significant tree works to ensure that irreplaceable habitats are not destroyed.
- Any ecological surveys in excess of 2 years old at the commencement of development shall be updated and submitted to the LPA for approval. For the purposes of clarity relating to updated surveys, development shall include any removal of vegetation or site clearance.
- Works shall proceed in accordance with all recommendations and measures set out in Chapter 6 of the Ecological Appraisal (Aspect Ecology, June 2019).

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- A Lighting Scheme showing the location, intensity and spill of lighting features overlaid with the location of any created or natural features of Bat interest.

Informative: An updated Biodiversity Impact Assessment (BIA) metric calculation demonstrating the eventual impact on the site shall be submitted in support of the Reserved Matters proposal.

Date response sent:	10 th December 2019
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