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By email only

27th January 2022

Dear Emily

REFERENCE NO: R3.0138/21

PROPOSAL: The dualling of the A4130 carriageway (A4130 Widening) from the Milton Gate Junction eastwards, including the construction of three roundabouts;

- A road bridge over the Great Western Mainline (Didcot Science Bridge) and realignment of the A4130 north east of the proposed road bridge including the relocation of a lagoon;
- Construction of a new road between Didcot and Culham (Didcot to Culham River Crossing) including the construction of three roundabouts, a road bridge over the Appleford railway sidings and road bridge over the River Thames;
- Construction of a new road between the B4015 and A415 (Clifton Hampden bypass), including the provision of one roundabout and associated junctions; and
- Controlled crossings, footways and cycleways, landscaping, lighting, noise barriers and sustainable drainage systems. at A linear site comprising a corridor between the A34 Milton Interchange and the B4015 north of Clifton Hampden including part of the A4130 east of the A34 Milton Interchange, land between Didcot and the former Didcot A Power Station and the Great Western Mainline, land to the north of Didcot where it crosses a private railway sidings and the River Thames to the west of Appleford-on-Thames before joining the A415 west of Culham Station, land to the south of Culham Science Centre through to a connection with the B4015 north of Clifton Hampden

In relation to the above application we have the following comments on behalf of the Berks, Bucks and Oxon Wildlife Trust. As a wildlife conservation focused organisation, our comments refer specifically to impacts on species and their habitats which may occur as a result of the proposed development.

BBOWT **objects** to this application in its current form on the following grounds:

1. The proposed development raises serious concerns about the negative impact on breeding and wintering birds across the whole scheme including disturbance during construction and operation and accidental mortality from collision with vehicles.
2. The proposed development raises serious concerns about the negative impact on the final scheme proposed for the Hanson restoration area at Bridge Farm, Sutton Courtenay including:
 - a) Impact on priority habitat
 - b) Impact on birds and other wildlife
 - c) Impact on the nature reserve for the visiting public

3. The applicant's metric assessment in the area of the minerals restoration appears to be based on its current state, rather than on the future baseline accepted by the Environmental Statement, being the baseline of the final restoration scheme at Bridge Farm, Sutton Courtenay.
1. The proposed development raises serious concerns about the negative impact on breeding and wintering birds across the whole site including disturbance during construction and operation and accidental mortality from collision with vehicles.

Having reviewed the application, we have significant concerns about the negative impact on breeding and wintering birds across the whole site and our evidence for this is as follows:

Paragraph 3.2.6 of the applicant's Outline Landscape & Biodiversity Management Plan (OLBMP) states:

"Of 87 bird species were recorded within the survey area during surveys for breeding birds, with territories for 53 species confirmed and 14 probable or possible territories, resulting in a breeding bird assemblage of 67 species across the survey area. The survey area supports a number of notable species during the breeding season, including Lapwing (Vanellus vanellus), Yellowhammer (Emberiza citronella), Linnet (Linaria cannabina), Reed Bunting (Emberiza schoeniclus) and Skylark (Alauda arvensis); all are BoCC Red or Amber list species, listed as Priority bird species on the UKBAP or species of principal importance."

Paragraph 5.3.3 of the applicant's Environment Statement Appendix 9.8 Wintering Bird Survey states:

"... the population of Lapwing (peak of 1000 birds) and Red Kite (peak of 51 birds) are likely to represent a population approaching (or greater than) 1% of the county population and are considered of county importance."

The applicants' Environment Statement Appendix 9.7 states:

6.1.2 Breeding territories of 53 species were confirmed within the survey area during surveys for breeding birds in 2020 and a further 14 species were probably or possibly holding breeding territories within the survey area, resulting in a breeding bird assemblage of 67 species.

6.1.3 The breeding assemblage of 67 species will place the value of the Site as being of county importance for breeding birds.

6.1.4 Territories of three species listed on Annex 1 of the EU Birds Directive (Red Kite, Common Tern and Kingfisher) and territories of four species (Red Kite, Little Ringed Plover, Barn Owl and Hobby) that are included on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) were confirmed within the survey area

6.1.6 The population of Little Ringed Plover, Gadwall and Common Tern within the survey area is of county importance.

Paragraph 3.2.7 of the applicant's Outline Landscape & Biodiversity Management Plan (OLBMP) states:

"There will be adverse impacts on several protected or notable species during construction and operation of the Scheme. These include negative impacts to ... Birds – negative impacts to nesting

bird species due to temporary and permanent loss of habitat and negative impacts due to permanent loss of foraging habitat - pastoral/ arable land, mortality due to collision with traffic and reduced population size and breeding success due to traffic noise and disturbance. As well as negative impacts to population of wintering birds due to loss of habitat and noise and visual disturbance from construction;”

Table 9.13 of the applicant’s Environmental statement Chapter 9 accepts that there is “*a risk of accidental mortality from collision with vehicles*” to both breeding birds including breeding Little Ringed Plover and Common Tern and wintering birds including Lapwing.

The importance of avoiding impact on the UK priority species is backed up by planning policy e.g. the NPPF states: “179. To protect and enhance biodiversity and geodiversity, *plans should: b) promote..... the protection and recovery of priority species;*”

Core Policy 46: Conservation and Improvement of Biodiversity of the Vale of the White Horse District Council local plan states:

*“Development likely to result in the loss, deterioration or harm to habitats or **species of importance to biodiversity**.... either directly or indirectly, will not be permitted unless:*

- i. the need for, and benefits of, the development in the proposed location outweighs the adverse effect on the relevant biodiversity interest;*
- ii. it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interests; and*
- iii. measures can be provided (and are secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for, the adverse effects likely to result from development”*

Policy ENV2: Biodiversity - Designated Sites, Priority Habitats and Species of the South Oxfordshire Local Plan states:

*3. Development likely to result, either directly or indirectly to the loss, deterioration or harm to.... **Priority Habitats and Species**...*

will only be permitted if:

- i) the need for, and benefits of the development in the proposed location outweigh the adverse effect on the interests;*
- ii) it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the interests; and*
- iii) measures will be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate or as a last resort, compensate for the adverse effects resulting from development.*

DEFRA have provided guidance to competent authorities (including local authorities) on how to comply with the legal requirements of the [Conservation of Habitats and Species Regulations 2010](#) as amended in paragraph 9a of the [Conservation of Habitats and Species \(Amendment\) 2012 Regulations](#)). The guidance is available at: <https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>

The guidance states that *“You must, as part of your existing duties as a competent authority, take the steps you consider appropriate to preserve, maintain and re-establish habitat that is large and varied enough for wild birds to support their population in the long term....*

You must use your powers so that any pollution or deterioration of wild bird habitat is avoided as far as possible.....

There are no national population targets for wild birds. However, you must aim to provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live.

You should focus on habitats for wild birds in decline but also maintain habitats supporting wild birds with healthier populations.”

consider bird populations when consulting on or granting consents, such as planning permissions, environmental permits, development or environmental consents, and other consents

This application currently does not provide sufficient evidence that it will *“provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live”* in relation both to *“wild birds in decline”* and to *“wild birds with healthier populations”*

6.2.3 of Appendix 9.8 states:

“The Scheme will incur habitat loss and increase habitat fragmentation and therefore it is important that mitigation measures are included to alleviate the effects and include enhancement where possible. It is recommended that, wherever possible, any habitat loss should be mitigated with the objective of conserving a similarly diverse assemblage of wintering birds to what is already present within the survey area.”

And further 6.2.4 states:

“The mitigation package should include habitat creation, particularly for wetland birds, located away from the Scheme that will minimise the impacts on the wintering bird assemblage. Mitigation that is located away from the Scheme will also reduce the impacts of visual disturbance associated with the Scheme.”

We do not accept that the benefits of the development outweigh the loss of priority bird species and it is not clear from the documentation that the recommended mitigation package has been provided as recommended in paragraphs 6.2.3 and 6.2.4 of Appendix 9.8.

Therefore, if the council is minded to approve the application, a significant mitigation package will be needed to address these serious impacts. Separate documentation should be provided and consulted on prior to determination, setting out in detail measures to address the above-mentioned impacts. This should include further details of the mitigation package referred to in paragraphs 6.2.3 and 6.2.4 of Appendix 9.8.

- 2. The proposed development raises serious concerns about the negative impact on the final scheme proposed for the Hanson restoration area at Bridge Farm, Sutton Courtenay including:**
 - a) Impact on priority habitat**

- b) Impact on birds and other wildlife
- c) Impact on the nature reserve for the visiting public

This section relates to the Hanson Restoration area. Between Didcot and Clifton Hampden the proposed road runs through a minerals working that has a restoration scheme to biodiversity including provision for visitors which has been approved through planning. The proposed scheme will have an impact on the potential of this area to reach its intended biodiversity outcome.

2 a) Impact on priority habitat

Paragraph 9.7.13 of the applicant's Environmental Statement Volume 1 Chapter 9 Biodiversity states:

"The future baseline has been assumed to include the Hanson restoration area, including the Culham finger lakes (WB16), according to the Hanson Aggregates Sutton Courtenay - Bridge Farm Revised Restoration Scheme. While the restoration scheme may not be fully implemented or matured by 2023, the proposed habitats are assumed to form part of the construction year baseline for the Scheme."

Therefore, the applicant accepts that the baseline for assessment should be the final restoration scheme and, in our opinion, this is correct. This position is backed up by the appeal decision in Appeal Ref: APP/E1855/W/15/3138986 Church Farm Quarry, Grimley, Worcestershire where the inspector found at paragraph 14:

.... "The appellant states that the site is a disused mineral site and still in the process of restoration, with no certainty that it will be implemented successfully and therefore at the time of the application it is not a green field site. I cannot agree. As I saw on my site visit substantial restoration of the wider quarry area had been completed and I have no evidence that full restoration could not be achieved within the timescale identified, or by enforcement of the relevant planning conditions. Furthermore, the Framework is clear that the definition of previously developed land does not include land that has been previously developed for minerals extraction where provision for restoration has been made through development control procedures. Accordingly, as the proposed waste management facility site is not located on a compatible type of land it is contrary to WWCS Policy WCS6."

In addition, in Application Ref: PAP/2014/0339 Appeal made by Harworth Estates Land at Daw Mill Colliery, Daw Mill Lane, Arley the Secretary of State finds at paragraph 386:

"In considering the baseline as the restored site, the appeal proposal would result in the loss of a green field site, including maturing woodland, watercourses and re-establishing flora and fauna, characteristic of the wider countryside landscape. Its loss would diminish the quality of the countryside and harm the biodiversity of the locality attracting significant weight against the proposal."

Therefore, in our opinion the application should be treated as if it was impacting on nature conservation land use including a variety of habitats rich in wildlife and with provision for visitors as proposed by the Hanson Aggregates Sutton Courtenay - Bridge Farm Revised Restoration Scheme. It is quite possible that the restored site would ultimately become a site of Local Wildlife Site quality and therefore it is our opinion that the application should be assessed in that context.

In paragraph 9.7.13 of the applicant's Environmental Statement Volume 1 Chapter 9 Biodiversity the applicant states:

"The areas of restored habitat to be affected by the Scheme form a wetland vegetation mosaic, including:

- Reedbed and wet woodland planting subsequent to re-grading – areas of reedbed and reed fringe to be crossed by embankment and viaduct, with areas lost for embankment and viaduct piers, and other areas affected by shading;*
- Wet woodland will occupy slightly higher ground out on the fingers, and at the higher western ends of the fingers that remain above winter flood levels – areas of existing tree and scrub vegetation will be lost for embankment and viaduct piers, and other areas affected by shading;*
- Dry lake margins intended to be managed as wet flower-rich grassland approximating to MG4/MG5 grassland, interspersed with tree clumps along shorelines – areas of such grassland will be lost for embankment and viaduct piers, and other areas affected by shading; and*
- Areas of standing water to be lost by embankment and viaduct placement, and areas to be shaded by the viaduct.*

The proposed nature reserve at the Hanson restoration area would therefore in time, allow for the creation of high value priority habitats including wet woodland, reedbed, eutrophic standing water and, potentially, lowland meadow and the application must therefore be assessed in the context of the loss of this priority habitat. The NPPF states:

"179. To protect and enhance biodiversity and geodiversity, plans should:

..... b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species;"

Core Policy 46: Conservation and Improvement of Biodiversity of the Vale of the White Horse District Council local plan states:

"Development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity or of importance for geological conservation interests, either directly or indirectly, will not be permitted unless:

- i. the need for, and benefits of, the development in the proposed location outweighs the adverse effect on the relevant biodiversity interest;*
- ii. it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interests; and*
- iii. measures can be provided (and are secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for, the adverse effects likely to result from development"*

Paragraph 9.7.13 of the applicant's Environmental Statement Volume 1 Chapter 9 Biodiversity (quoted above) accepts that areas of both reedbed and wet woodland will be "lost for embankment and viaduct piers, and other areas affected by shading; ".

In our opinion the applicant has not demonstrated that the loss, or degradation, of high value priority habitat namely wet woodland, reedbed, eutrophic standing water and, potentially, lowland meadow, will be adequately mitigated against or compensated for and therefore the application is in contravention of the NPPF and local plan. If the authority was to decide that this scheme should go ahead we would suggest that the applicant should provide an additional nature reserve of appropriate size and quality in order to compensate for the loss of priority habitat which will result from the proposed scheme.

2b) Impact on birds and other wildlife

The Hanson restoration area is to be managed according to the document **Amended 5 year outline aftercare scheme to accord with the revised proposals for extracting phase 4B below water table and the restorations of Phase 4B to open water and reed beds**. This document states:

“The overall intention of the restoration and aftercare programme is to promote the rehabilitation of the site for nature conservation land use, comprising reed beds, lake margin grassland and native scrub habitats of high biodiversity value, as shown on the restoration plan S3/HAN/10/10D.”

It would therefore be reasonable to assume that the species associated with these habitats will be adversely affected by the proposed scheme in contravention of the NPPF and local plan which are quoted above. **The scheme will impact on the potential use of the site by a wide range of species, including breeding and wintering birds as well as many other species groups, which would otherwise have expected to colonise the site following the completion of the restoration scheme. As with 2a) above, then if the Council is nevertheless minded to approve the development on this route, despite our concerns, then a compensatory nature reserve of appropriate size and quality should be created for mitigation.**

2c) Impact on the nature reserve for the visiting public

The restoration plan S3/HAN/10/10D includes a bird hide and car park with a footpath between the two as set out in paragraph 2.5 of the **Amended 5 year outline aftercare scheme to accord with the revised proposals for extracting phase 4B below water table and the restorations of Phase 4B to open water and reed beds**:

“Access and Bird Hide

- Car park provision of approx. 15mx12m hardstanding will be installed near to operational site entrance as per approved restoration scheme.*
- Appropriate bird hide will be constructed where indicated.*
- Mown grass pathway will be installed and maintained over approx. 500m to bird hide, as per approved scheme, suitably screened from birds on lake by establishment of dense belt of vegetation and/or reshaped soil bunding.”*

It would be reasonable to assume that the proposed scheme will have a negative impact on the nature conservation land use at the Hanson restoration area for the visiting public, both because of the adverse impact of the scheme on habitat and wildlife as outlined above, and because of the visual, noise and general disturbance impact of the scheme on the nature reserve. People would generally visit such an area to enjoy the peace and quiet, as well as the wildlife. The impact of a road crossing above the nature reserve is likely to seriously undermine the quality of visit. As in 2a and 2b above, if the Council is nevertheless minded to

approve the development on this route, despite our concerns, then a compensatory nature conservation area of appropriate size and quality should be created in order to mitigate the impact on the quality of visit for visitors to the future baseline restoration area.

3. The applicant's metric assessment in the area of the minerals restoration appears to be based on its current state, rather than on the future baseline accepted by the Environmental Statement, being the baseline of the final restoration scheme at Bridge Farm, Sutton Courtenay

As discussed above, the proposed route for the road crosses mineral workings which are due to be restored at Bridge Farm, Sutton Courtenay. The Environmental Statement states:

"9.7.13 The future baseline has been assumed to include the Hanson restoration area, including the Culham finger lakes (WB16), according to the Hanson Aggregates Sutton Courtenay - Bridge Farm Revised Restoration Scheme. While the restoration scheme may not be fully implemented or matured by 2023, the proposed habitats are assumed to form part of the construction year baseline for the Scheme."

This appears to be correctly recognising that because the land in question is subject to an approved planning application intended to result in a restored area of considerable value for biodiversity, then this application should assess the land as it was intended to become in the approved restoration, rather than on its current state.

The Biodiversity Net Gain metric should likewise be based on that future baseline of the approved restoration area. However it does not appear to be based on that future baseline, unless we have missed something. Instead it appears to be based on the current habitats. If we are correct in this, then this is out of step with what appears to be the approach in the Environmental Statement and also would not, in our opinion, be the correct approach. The result of basing the metric on the current habitat, rather than on the future baseline of the approved restoration plan, could be a significant undervaluing of the pre-development baseline in the metric. If that is the case then the value of 11.11% net gain for habitats described in the Biodiversity Net Gain Assessment document (3.2.2) could be a significant over-valuation.

The reasons we believe that the metric is based on the current habitats, rather than on the future baseline of the approved restoration scheme , are as follows:

- a) Whilst we could find mention of the term future baseline and Hanson Restoration Area in the Environmental Statement, we could not find any such mention in the Biodiversity Net Gain Assessment document. Such a mention would probably be expected if the future baseline had been used for the Hanson restoration Area, in order to explain why the metric was not based on the existing habitats;
- b) The Environmental Statement includes the following content about the future baseline habitats, and their loss, or degradation through shading:

"9.12.6 Direct loss of areas of standing water (see above), reedbed, wet woodland and wet flower-rich grassland approximating to MG4/ MG5 grassland in the Hanson Restoration Area, will occur due to the construction of embankment and viaduct piers."

"9.7.13 The areas of restored habitat to be affected by the Scheme form a wetland vegetation mosaic, including:

 - *"Reedbed and wet woodland planting subsequent to re-grading – areas of reedbed and reed fringe to be crossed by embankment and viaduct, with areas lost for embankment and viaduct piers, and other areas affected by shading;*
 - *Wet woodland will occupy slightly higher ground out on the fingers, and at the*

higher western ends of the fingers that remain above winter flood levels – areas of existing tree and scrub vegetation will be lost for embankment and viaduct piers, and other areas affected by shading;

- *Dry lake margins intended to be managed as wet flower-rich grassland approximating to MG4/MG5 grassland, interspersed with tree clumps along shorelines – areas of such grassland will be lost for embankment and viaduct piers, and other areas affected by shading; and*
- *Areas of standing water to be lost by embankment and viaduct placement, and areas to be shaded by the viaduct.”*

We looked for these habitats in the Biodiversity Net Gain Assessment and found the following:

“Standing Water”: There is reference to Standing Water in 3.1.29, however it appears that this is being assessed in its current state and not in the future baseline state of the completed restoration: *“3.1.29 There are several large waterbodies associated with former gravel extraction which due to their recent construction do not contain many plant species.”*

“Reedbed”: whilst there is reference to this priority habitat in 3.1.19, it is not clear that this is referring to the reedbeds expected to be created in the Hanson restoration area future baseline, and in any case the Condition score for the future baseline could be reasonably expected to be higher than Poor.

“Wet woodland”: we could not find any reference to wet woodland in the metric baseline.

“Dry lake margins intended to be managed as wet flower-rich grassland, approximating to MG4/MG5 grassland”: although there was reference to Other neutral grassland, it is not clear that this is referring to the wet flower-rich grassland approximating to MG4/MG5 that is in the future baseline for the Hanson Restoration Area.

Potential for roadside verges rich in wildlife

If the authority decides that this road scheme should go ahead despite the concerns outlined above, it is vitally important that the potential for roadside verges rich in wild flowers is considered before the scheme is started as it is much easier to establish such verges if nutrient poor subsoil is used to create the road verges in accordance with the Highways England Low Nutrient Grasslands policy

<https://www.gov.uk/government/news/breaking-new-ground-with-eco-drive-to-bring-the-countrys-verges-to-life> which follows the success of Dorset Council’s Weymouth Relief Road where wide chalk cuttings were left bare, with minimal top soil (max 15mm thick), and seeded with wildflowers that thrive in chalk. These cuttings are now supporting over 140 plant species and 30 species of butterflies and in the 10 years since construction, the verges have required minimal maintenance, some none at all.

We hope that these comments are useful. Please do not hesitate to get in touch should you wish to discuss any of the matters raised.

Yours sincerely

Nicky Warden

Public Affairs and Planning Officer

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