

## APPLICATION WEB COMMENTS FORM

### *Information available for public inspection and available on our website*

**Location :** Emmanuel Ranch Windmill Road Towersey OX9 3QQ

**Proposal :** Change of use of land to use as a residential caravan site for 3 gypsy families, including the stationing of 6 caravans of which no more than 3 are to be static caravans/mobile homes, together with the laying of hardstanding.

**Application Reference :** P24/S0941/FUL - 15

Please complete

<b>Your name :</b>	Ecology Team (South and Vale)
<b>Your address :</b>	South Oxfordshire & Vale of White Horse District Councils
<b>Date :</b>	12 April 2024

### Use the space below for your comments

Introduction:

I cannot support this application.

The application seeks retrospective planning permission for unlawful development already undertaken. No ecological information is provided to support the submission.

From the site photos available to me, it is apparent that the actions of the applicant have resulted in notable damaging earthworks outside of the red line boundary of the application site (blue line land). It would appropriate to have the red line boundary of the application site expanded to cover all acts of unlawful operational development undertaken onsite.

Policy:

Policy ENV2 of the South Oxfordshire Local Plan (SOLP) seeks to protect important ecological receptors (designated sites, protected species, priority habitats, etc.). Where adverse impacts on important ecological receptors are likely, development must meet the criteria outlined under the policy to be acceptable.

Policy ENV3 of the SOLP seeks to secure net gains for biodiversity and requires that applications are supported by a biodiversity metric assessment.

Net loss of biodiversity will not be supported.

Policies ENV2 and ENV3 of the SOLP are wholly consistent with paragraphs 180, 185 and 186 of the NPPF.

PPG advises that retrospective applications are considered and assessed in the normal way, as if development had not been undertaken unlawfully already (Paragraph: 012 Reference ID: 17b-012-20140306).

Designated sites:

I am satisfied that the development sought for permission would not have a significant adverse effect on any statutory or locally designated sites for biodiversity conservation.

Habitats:

No ecological information has been submitted to support this application. Historic aerial photography shows that the current red line boundary used to contain areas of (unsealed) bare ground associated with the site access and stable yard likely due to the movement of vehicles. In the east, a riding manege existed. More recently, prior to the applicant occupying the site, it appears that these areas had mostly succeeded into rougher areas of grassland and scrub.

Due to the nature of this retrospective submission, it is not known what habitats likely existed within the red line boundary (or the wider site) prior to unlawful development occurring. Taking a precautionary approach, it is reasonable to assume that other neutral grassland and mixed scrub existed onsite. It is unlikely, given the historic use of the site as paddock, that the areas of grassland supported priority habitat lowland meadow or calcareous grassland.

The grassland and scrub habitats that existing onsite prior to unlawful development commencing were unlikely to be priority habitats and therefore a constraint under Policy ENV2. However, these habitats would have had intrinsic value that is now lost (see BNG comments below).

Species:

The scrub and tussocky grassland habitats onsite, prior to unlawful development took place, appeared to be highly suitable to support a range of protected species.

There are six mapped ponds within 500m of the application site, with the closest being c.150m to the southeast. There is a known and recorded population of great crested newts (GCN) within Towersey, immediately to the south of the application site. When referring to the GCN impact risk map, which forms part of the Council's district level licence agreement with Natural England, the application site resides in an amber zone of increased risks to GCN. GCN spend most of their lifecycle on land within 500m of ponds. The

tussocky grassland and scrub mosaic was suitable terrestrial habitat for the species. As such, it was reasonably likely that the protected species existed on the application site and was harmed by the unlawful development.

It is also reasonably likely that the application site supported populations of more-common reptiles (slow worm, common lizard, grass snake), due to the ideal habitat structure prior to clearance.

These species would either have been killed, injured or displaced from the site during clearance works. There is no opportunity to undertake surveys to establish the level of harm to species, due to the way that the site has been unlawfully developed. In the absence of any evidence to confirm this, the police are highly unlikely to pursue any prosecution for wildlife crimes.

The southern boundary of the site is demarcated by a mature hedgerow, which is well connected to a network of other mature hedgerows in the adjacent countryside. This hedgerow boundary appears to be highly suitable for foraging and commuting bats (all species of which are protected). If obtrusive external lighting is likely to be installed onsite, adverse impacts could occur and bat surveys would be required to establish the level of impact. This matter could potentially be restricted with a planning condition, but there is likely a reasonable expectation that some level of external lighting will be provided, for amenity purposes, for residential-use plots.

Generally speaking, it is not possible to establish the level of harm caused to individual species in the absence of robust ecological surveys. In this instance, the development of the red line boundary and clearance of the wider site has, on the balance of probability for the reasons discussed above, had adverse impacts on protected species. There is no ecological mitigation or compensation proposed in the submission, and it is not possible to determine what mitigation or compensation would be needed to satisfy the requirements of ENV2 as this would be proportionate to the level of impact (which cannot be determined). Some species mitigation and compensation could be secured with planning conditions, but this would need to be on the wider site and not within the red line boundary. Areas shown as paddocks would need to be enhanced and habitats created for those species likely impacted.

#### Biodiversity Net Gain (BNG):

This application was submitted prior to mandatory BNG, within the meaning of Schedule 7A of the TCPA 1990, taking effect for non-major development. However, Policy ENV3 of the SOLP requires that development achieves at least a no net loss (neutral impact on biodiversity) and encourages net gains wherever possible.

The loss of grassland and scrub habitats to built development within the red line boundary, and clearance of habitats within blue line land (to the muddy quagmire that currently exists at the time of writing), has resulted in a net loss of biodiversity. Policy ENV3 of the SOLP requires that the net impacts of biodiversity are assessed with a biodiversity metric, so that suitable

compensatory habitats can be provided to achieve compliance with the policy.

No such metric has been submitted with the application. Based on suitably precautionary assumptions for the baseline lawful habitats that existed onsite prior to clearance, it is likely that this net loss is significant. It is unclear whether there is suitable scope (space) to enhance habitats within the control of the applicant to meet the minimum requirements of Policy ENV3.

Summary:

- Harm to designated sites are unlikely.
- The unlawful works have resulted in the loss and deterioration of habitats within both the red and blue line boundaries. It is unlikely that these habitats were priority habitats.
- Harm to protected species is reasonably likely to have occurred and, in the absence of ecological survey information, it is not known what mitigation or compensation would be required to achieve compliance with Policy ENV2.
- It may be suitable to restrict external lighting with planning conditions.
- No biodiversity metric has been submitted to support this application. The work sought for approval and undertaken on the wider site have likely resulted in a significant net loss of biodiversity.
- There is insufficient evidence provided to demonstrate that the proposal accords, or can accord, with the requirements of Policy ENV2 and ENV3 of the SOLP.

Edward Church ACIEEM