

Stephanie Eldridge
West Oxfordshire District Council

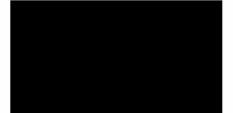
By e-mail

Our ref: DW/E2232/SE-L3

18th June 2025

Dear Stephanie

Bioscan (UK) Ltd
The Old Parlour
Little Baldon Farm
Little Baldon
Oxford
OX44 9PU



24/01861/FUL – Land NW of Little Tew

We write further to your receipt of Natural England's letter dated 09 June, which outlines the types of further design and operational details that NE suggest might be secured by planning condition to mitigate the risk of damage or other harms to Little Tew Meadows SSSI from the above proposed development.

We respectfully invite the planning authority to note that the statutory authority's advice on this matter does not address the precursor 'avoidance' tier of the mitigation hierarchy, as specifically referenced in NPPF 193(a). You will be aware that development proponents and decision makers are required to consider 'avoidance' in advance of 'mitigation' or 'compensation' in descending preference in line with that hierarchy. This is required for policy compliance and in the interests of environmentally responsible and sustainable land-use planning more generally.

In this context we remind the LPA that the acknowledged risks this development poses to the SSSI are in large part a function of insufficient regard being had to the proximity and hydrological relationship of the application site to the SSSI by the applicant to date. Had these matters been given due consideration and weight during the design process, it is possible (and we say, in view of the extent of blue line land, likely) that a building layout, use arrangements and foul/surface water drainage design that better buffered and protected the SSSI would have been arrived at. The application site and associated blue land is large enough to obtain a siting of key risk factors that would at least lessen, and at best design-out completely, the problems and risks associated with the current siting and drainage design.

In the event, the proximity of the SSSI was given scant or no attention in the design of the development and in particular the siting of the buildings and uses and their associated effects, and thus the first tier of the mitigation hierarchy was leapfrogged by the applicant. Current attempts by the applicant to retrofit mitigation are something of an afterthought and they do not address the policy requirement or otherwise remedy that omission. Nor (we would contend), would attaching planning conditions of the type NE suggest be sufficient to overcome the sound concerns and grounds for objection shared by both NE and ourselves. This may be because NE are not as familiar as the LPA with respect to the drafting of and subsequent enforcement of planning conditions.

It is unclear why NE, having first requested further details to particularise risks to the SSSI and then evidently concluded that such risk is real in light of such further information, has not directed that the applicant needs to demonstrate (in accordance with national NPPF policy) that the risks to the SSSI are not capable of being designed out (and thereby avoided) such that recourse to mitigation is necessary. It is of course for the applicant to consider how this can be done. Avoidance of harm to the SSSI is a policy objective placed on the Local Planning Authority

when exercising its development control functions, and also a legal duty further to S28G of the Wildlife and Countryside Act 1981 (as amended). That duty is on the Local Planning Authority; NE are not the decision maker but a statutory consultee who here have highlighted the risk. It is now for the Local Planning Authority to apply policy accordingly.

Finally, we suggest that it is also in the LPAs long-term interests to seek to minimise risk to the SSSI not just to accord with its own policies and statutory obligations as a S28G authority, but also for pecuniary reasons. This is because reliance on mitigation measures which, if they fail, will likely result in damage to the SSSI, places a substantive monitoring and enforcement burden not just on the applicant, but also the LPA.

We invite the LPA to take the above into full consideration when deciding this application.

Best regards



Dominic Woodfield CECOT CENV MCIEEM
Managing Director