Hearing Statement on

Ecology Matters

In respect of:

Land at Mockbeggars Farm, London Road,

Budletts Common, Uckfield, TN22 2EB

Prepared by:

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On behalf of:

Obsidian Strategic Asset Management Ltd

Planning Application Reference: WD/2022/0648/MAO

PINS Reference: APP/C1435/W/23/3330872

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1 Qualifications & Experience

1.1 My name is Dr Dan Simpson. I hold a Bachelor of Science Honours degree specialising in Animal Science from Nottingham University and a research doctorate (PhD) from the University of Bristol. I have over 20 years of professional experience in ecological consultancy and am a Chartered Ecologist, and a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM). I am a Technical Director at Aspect Ecology working with a team of over 30 full-time ecologists.

1.2 I have extensive experience carrying out ecological surveys and assessments in relation to a wide range of development schemes across the UK, including across the residential, transport, industrial, retail, education, commercial, leisure and renewable energy sectors. I hold, and have held, numerous scientific and development licences in respect of protected species, including bats, badger, barn owl, dormouse and great crested newt.

1.3 I am regularly employed to advise on the potential impacts of development proposals on sensitive habitats and species, and designated sites, including sites of local, national and international importance, and to formulate mitigation strategies and also to advise on ecological enhancement opportunities.

1.4 I have provided expert ecological evidence on a variety of matters at Section 78 planning appeals, including through written representation, appeal hearings, public inquiries and 'call-in' inquiries.

1.5 The information that I have prepared and provide in this Hearing Statement is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2 Background

2.1 My Hearing Statement relates to application WD/2022/0648/MAO, submitted to Wealden District Council in March 2022, seeking permission for the proposed development of land at Mockbeggars Farm, London Road, Uckfield (the 'appeal site') to provide 60 dwellings, access and internal roads, parking, ancillary structures, landscaping and open space, drainage and other associated works, with all matters reserved apart from access. It addresses '*the effect of the proposal on ecology with particular regard to protected species (bats)*', which was identified by the Planning Inspector as a main issue in the Pre-conference Note.

2.2 The appeal application was accompanied by an Ecological Appraisal dated January 2022 (**CD3.7**), prepared by Aspect Ecology. A consultation response was provided by the Council's Biodiversity Officer on 27/01/2023 (**CD8.1**). The consultation response raises no concerns regarding the robustness of the ecological surveys reported in the Ecological Appraisal and notes the development should be capable of Biodiversity Net Gain ('BNG') provision onsite, as per current local and national policy.

2.3 The consultation response acknowledges the proposed 15m buffer zone to the offsite area of ancient woodland, located at the central / south-eastern boundary of the appeal site, and accepts this will buffer the ancient woodland from impacts of development such as light, noise and pet predation, subject to the inclusion of sufficient tree and shrub species. The response also notes that suitable precautionary measures have been proposed for badgers, dormice, hedgehogs, herptiles and nesting birds.

2.4 However, the consultation response raises concerns that the proposed development would fragment the central north-south hedgerow ('H4') with a proposed access road and that the proposed built form at the southern end of the appeal site would segregate current connectivity to the wider local ecological network for wildlife, specifically bats. In addition, a concern was raised regarding potential impacts of artificial lighting from the development on bats. A holding objection from the Council's Biodiversity Officer was made on this basis.

2.5 Responding to the above concerns, a revised Proposed Indicative Sketch Layout Plan (**CD3.1**) was submitted to the Council in February 2023. The revised plan minimises fragmentation of the north-south hedgerow and omits built form in the southern part of the appeal site, replacing this with proposed woodland.

2.6 An updated consultation response was provided by the Biodiversity Officer on 25/05/2023 (**CD8.2**). The response confirms that the revised layout plan alleviates the previous concerns relating to impacts upon the local ecological network, ecological connectivity and local bat populations/fragmentation of habitats, and reiterates that the development should be capable of biodiversity net gain provision onsite as per current local and national policy. In addition, the response notes the adjoining ancient woodland will be buffered with semi-natural habitat and native woodland planting.

2.7 The appeal application was recommended for approval by the Head of Planning and Environmental Services, as set out in the committee report dated June 2023 (**CD5.1**). The committee report notes the Council's Biodiversity Officer is able to support the proposed development and the key areas of sensitivity have been highlighted and suitable mitigation has been identified, including a 15m buffer around the offsite area of ancient woodland. The committee report also notes the development would:

'. . . enable provision of an enriched connection between the currently isolated [ancient woodland] and larger expanses of [ancient woodland] to the west which in turn would enhance habitat used by protected species. The proposed density would enable any reserved matters to enhance the retained existing planting around the site. The development would provide the opportunity for biodiversity gain.' (**CD5.1** – PDF p.73)

2.8 The committee report also includes a Habitats Regulations Assessment (HRA), which assesses the potential effects of the proposed development on Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA). In summary, the HRA concludes that, subject to mitigation, the proposed development would not adversely impact on the integrity of the SAC or SPA, either alone or in combination with other plans and projects[1].

2.9 Contrary to the recommendation in the committee report, the application was refused at Wealden's Planning Committee North on 15/06/2023. The Decision Notice (**CD4.1**) was subsequently issued on 22/06/2023 and included the following reasons for refusal of relevance to ecology:

[1] **CD5.1** PDF p.83, final para.

Refusal Reason 3

'The site is located within a local ecological network of large ancient woodlands interdispersed with smaller parcels of ancient woodland, priority habitat deciduous woodland, fields, hedges, tree lines and scattered and linear development on the periphery of Ringles Cross and Budlett's Common.

The site itself provides semi-natural connectivity between these habitats and is constrained by existing development on its north, south and eastern sides. The site currently provides connectivity in the landscape between large areas of semi-natural and irreplaceable habitat Paygate/Budlett's Wood, Budletts Common to the west (which in turn leads on to Shortbridge Stream and Lake wood LWS) and View's Wood and Buxted Park SSSI to the east.

Insufficient information has been submitted to demonstrate the proposed development would not result in adverse impacts on protected species (bats) known and within the application supporting evidence to be on, at or foraging over the site. Moreover, the applicants survey confirms high bat activity within the site and confirms use of the site by a number of light avoiding species including, myotis, brown-long-eared and barbastelle; the latter of which is an annex IV species of the European Habitats Directive (Animal and plant species of Community interest i.e. endangered, vulnerable, rare or endemic in the European Community, in need of strict protection), a rare bat that forages/commutes over a large area.

Whilst it is noted that the scheme includes an area indicated for bat mitigation, it is not clear how this would be affected by lighting from the proposed houses and movements to/from them in vehicles or from light emitted from adjacent developments, nor is it clear how the loss of the land from a foraging perspective is adequately mitigated or compensated.

The proposals do not show how the quantum of growth can be accommodated here as well [as] establishing a coherent ecological network, resilient to current and future pressures. Nor would it maintain and enhance known networks of habitats and green infrastructure.

Therefore the proposal would be contrary to paragraph 174 a b and d of the National Planning Policy Framework 2021.'

Refusal Reason 4

'The development proposals would result in loss of landscape hedge and vegetation in order to provide necessary access (with required sight lines to serve the development). It will open up the site to development whereas at present the boundary treatment is an attractive and otherwise undisturbed natural habitats[sic] that supports protected wildlife, species and other flora and fauna.

The loss of this feature and its replacement with a housing estate and associated access and other infrastructure would not add to the overall quality of the area, contrary to the National Planning Policy Framework 2021, paragraph 130 (a).'

2.10 Since the application was refused, a number of additional submissions have been made:

- Landscape Strategy Plan (**CD11.3**)
- Biodiversity Net Gain Assessment (**CD11.4**)
- Shadow Habitats Regulations Assessment (HRA) (**CD11.5**)
- Ecological Lighting Design Principles (**CD11.6**)

2.11 On 01/12/2023, the Council advised PINS that, having regard to the above submissions, it is unable to provide a robust defence of the above refusal reasons and has withdrawn from the appeal. Accordingly, the above refusal reasons are no longer supported by the Council.

2.12 Uckfield Town Council originally objected to the application, with recent comments on ecology matters set out in its letter dated 30/11/2023. Mockbeggars Residents' Steering Group (MRSG) was initially granted Rule 6 status, however it has subsequently advised that it is not able to proceed as a Rule 6 Party. Finally, a number of 3rd parties, primarily local residents, objected to the application, some of which refer to ecology matters.

2.13 My statement is structured as follows:

- Chapter 3 provides a summary of the legislation and policy relevant to ecology matters;
- Chapter 4 summarises the Ecological Appraisal process carried out at application stage;
- Chapter 5 provides an overview of the ecological status of the appeal site;
- Chapter 6 assesses the ecological impacts of the appeal proposals;
- Chapter 7 assesses the impacts of the appeal proposals on Ashdown Forest SAC/SPA;
- Chapter 8 deals with Biodiversity Net Gain;
- Chapter 9 addresses 3rd Party issues;
- Chapter 10 provides a summary and conclusions.

3 Legislation and Policy Summary

3.1 Legislation

3.1.1 The following paragraphs summarise the legislation relevant to ecology; for full details refer to Appendix DS1.

Wildlife and Countryside Act 1981 (as amended)

3.1.2 The Act provides for the notification, protection and management of Sites of Special Scientific Interest (SSSIs) identified for their flora, fauna, geological or physiographical features. The Act also refers to the treatment of UK wildlife including protected species listed under Schedules 1 (birds), 5 (mammals, herpetofauna, fish, invertebrates) and 8 (plants). The Act includes offences relating to the intentional killing, injury or taking of protected fauna; taking, damage or destruction of nests and eggs of relevant fauna; and the picking, uprooting or destruction of certain wild plants. The Act also contains measures for preventing the establishment of non-native species that may be detrimental to native wildlife, prohibiting the introduction into the wild of certain animals and plants.

Protection of Badgers Act 1992

3.1.3 The Act aims to protect the species from persecution, rather than being a response to an unfavourable conservation status, as the species is in fact common over most of Britain. It should be noted that the legislation is not intended to prevent properly authorised development. The Act includes offences relating to wilfully killing, injuring, taking or cruelly ill-treating Badgers; and intentionally or recklessly interfering with a Badger sett.

Hedgerows Regulations 1997

3.1.4 'Important' hedgerows (as defined by the Regulations) are protected from removal (up-rooting or otherwise destroying). Various criteria specified in the Regulations are employed to identify 'important' hedgerows for wildlife, landscape or historical reasons.

Countryside and Rights of Way (CRoW) Act for England and Wales 2000

3.1.5 The CRoW Act provides increased measures for the management and protection of SSSIs and strengthens wildlife enforcement legislation. The Act also introduced a duty on Government to have regard to the conservation of biodiversity and maintain lists of species and habitats for which conservation steps should be taken or promoted.

Natural Environment and Rural Communities Act 2006

3.1.6 Section 41 of the NERC Act requires the Secretary of State to publish a list of habitats and species of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers, e.g. local planning authorities, in implementing their duty under Section 40 of the Act, to have regard to the conservation of biodiversity in England, when exercising their normal functions. The Section 41 list includes all the habitats and species in England identified as requiring action under the former UK Biodiversity Action Plan.

Environment Act 2021

3.1.7 The Environment Act introduces a mandatory requirement for biodiversity net gain in the planning system, to ensure new developments enhance biodiversity. Part 6, Section 98 introduces the requirement for biodiversity gain as a condition of planning permission in England, for which provision is made through Schedule 14.

3.1.8 Schedule 14 of the Act inserts a new section (Section 90A) into the Town and Country Planning Act 1990 and associated schedule (Schedule 7A). Paragraph 1 of Schedule 7A gives effect to paragraphs 2 to 11, which set out details of a new general condition to all planning permissions granted in England, subject to exceptions. The condition requires a Biodiversity Gain Plan (BGP) to be submitted and approved by the planning authority before development can lawfully commence. The BGP should contain an assessment of the value of natural habitats before development and after development, and ensure that at least a 10% net gain is achieved between the earlier and later values, as calculated using a statutory biodiversity metric.

3.1.9 In summary, the above provisions of the Environment Act introduce a mandatory requirement for a 10% biodiversity net gain for all qualifying new developments. This will apply from January 2024 (subject to parliamentary timetabling) to all new applications for major development under the Town and Country Planning Act 1990, unless exempt. It will apply to small sites from April 2024 and to NSIPs from November 2025. It does not apply to planning applications submitted prior to the mandatory BNG requirement taking effect in January 2024, as clarified by the Department for Levelling Up, Housing and Communities in its Draft Biodiversity Net Gain Planning Practice Guidance[2]:

[2] See extract at Appendix DS2 – BNG PPG Paragraph: 003 Reference ID: 74-003-2023

'Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made after [January xx 2024 subject to parliamentary timetabling]. Permissions granted for applications made before this date are not subject to biodiversity net gain.'

3.1.10 Furthermore, a recent High Court judgement makes it clear that when dealing with appeals Planning Inspectors should not take into account the future BNG legislative requirements[3].

National Planning Policy Framework (NPPF)[4]

3.1.11 The NPPF describes the Government's national policies on 'Conserving and enhancing the natural environment' (Chapter 15). Para. 180 of NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

'*minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*'.

3.1.12 The approach to dealing with biodiversity in the context of planning applications is set out at para. 185:

'When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided . . ., adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; . . .

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'

Local Policy

3.1.13 Current local policy consists of the Wealden Core Strategy Local Plan (2013) and the saved policies of the adopted Wealden Local Plan (1998).

[3] [2023] EWHC 2795 (Admin) – see Appendix DS3
[4] **CD1.1**

3.1.14 **Policy WCS12 – Biodiversity** of the Core Strategy refers to the Council seeking to prevent a net loss of biodiversity and working with partners to maximise opportunities to ensure habitats, biodiversity features and ecological networks are maintained, restored, enhanced, and where possible created to achieve a net gain in biodiversity, through development and implementation of an integrated green network strategy (yet to be produced).

3.1.15 This policy also refers to avoiding adverse effects on the integrity of the Ashdown Forest SAC and SPA, by reducing the recreational impact of visitors resulting from new housing development within 7km of Ashdown Forest and requiring provision of Suitable Alternative Natural Green Space (SANGS) and contributions to on-site visitor management measures.

Wealden Local Plan (1998)

3.1.16 **Policy EN13** relates to the protection of ancient woodland against clear-felling. **Policy EN15** relates to safeguarding of designated nature conservation sites, such as SSSIs and Sites of Nature Conservation Importance (SNCIs).

4 Ecological Appraisal Process

4.1 As set out in the background chapter, the appeal application was accompanied by an Ecological Appraisal dated January 2022 (**CD3.7**), prepared by Aspect Ecology. In summary, the Ecological Appraisal involved a desktop study, numerous ecological surveys, identification and evaluation of 'important ecological features' and impact assessment. In addition, the Council's Biodiversity Officer was consulted on the Ecological Appraisal during the application process.

4.2 Desktop Study

4.2.1 In order to compile background information on the appeal site and its immediate surroundings the Sussex Biodiversity Record Centre and Badger Trust Sussex were contacted in May and November 2021, with data requested on the basis of a search radius of 1km for Badger records and 2km for all other records.

4.2.2 Information on statutory designations was obtained from the online Multi-Agency Geographic Information for the Countryside (MAGIC) database, which utilises data provided by Natural England, with an extended search radius (25km). In addition, the MAGIC database was searched to identify the known presence of any Priority Habitats within or adjacent the appeal site. The Woodland Trust database was also searched for any records of ancient, veteran or notable trees within or adjacent to the appeal site.

4.3 Surveys

4.3.1 The appeal site was originally subject to an extended Phase 1 habitat survey in May 2021, per standard guidance, to ascertain the general ecological value of the appeal site and to identify the main habitats and ecological features present. An updated habitat survey was carried out in August 2023, in conjunction with the Biodiversity Net Gain Assessment (**CD11.4**).

4.3.2 In tandem with the Phase 1 survey in May 2021, the following protected species surveys were carried out:

- Badger presence / absence survey;
- Preliminary roost assessment of trees for bats;
- Great Crested Newt habitat suitability index assessment of an off-site pond.

4.3.3 The following additional protected species surveys were carried out:

- Bat activity surveys, involving walked transects and automated static detector surveys in June, July, August and September 2021 (with updates carried out post-submission in July, August and September 2023 – see Appendix DS4);
- Dormouse presence / absence survey, June – November 2021;
- Great Crested Newt survey of an off-site pond, June 2021.

4.4 Evaluation and Impact Assessment

4.4.1 An evaluation of the ecological features and resources within the appeal site, and assessment of likely effects of the appeal proposals, was carried out based on the standard approach described by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2018)[5], which involves identifying 'important ecological features' within a defined geographical context (i.e. international, national, regional, county, district, local or site importance).

4.5 Consultation

4.5.1 As set out in the background chapter, an initial consultation response was provided by the Council's Biodiversity Officer on 27/01/2023 (**CD8.1**). The consultation response raises no concerns regarding the robustness of the ecological surveys reported in the Ecological Appraisal. The initial consultation response raises concerns that the proposed development would fragment the central north-south hedgerow ('H4') with a proposed access road and that the proposed built form at the southern end of the appeal site would segregate current connectivity to the wider local ecological network for wildlife, specifically bats. In addition, a concern was raised regarding potential impacts of artificial lighting on bats.

4.5.2 Responding to the above concerns, a revised Proposed Indicative Sketch Layout Plan (**CD3.1**) was submitted to the Council in February 2023. An updated consultation response was subsequently provided by the Biodiversity Officer on 25/05/2023 (**CD8.2**), which confirms that the revised layout plan alleviates the previous concerns relating to impacts upon the local ecological network, ecological connectivity and local bat populations/fragmentation of habitats.

[5] CIEEM (2018) '*Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine*', ver. 1.1 (**CD8.3**)

5 Overview of Ecological Status of the Appeal site

5.1 Ecological Designations

5.1.1 The appeal site is not subject to any statutory or non-statutory ecological designations. The nearest international designation is Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), located approximately 3km north of the site. The nearest national statutory designation is Buxted Park Site of Special Scientific Interest (SSSI) located approximately 500m east of the appeal site. The nearest non-statutory designation is Budlett's Common Rocks Local Wildlife Site (LWS), located approximately 50m north of the appeal site.

5.2 Habitats

5.2.1 The previous ecological survey work reported in the 2022 Ecological Appraisal (**CD3.7**) identified that the appeal site comprises two species-poor semi-improved grassland fields grazed by sheep and horses. The western field includes a small area of mixed deciduous woodland and is bound by hedgerows. The eastern field is bound partly by hedgerows and partly by fences forming the boundaries of adjacent properties.

5.2.2 The only important ecological features within the appeal site are the hedgerows and woodland, which are Priority Habitats[6] of local level value. No irreplaceable habitats are present within the appeal site.

5.2.3 Round Wood ancient woodland is located off-site immediately adjacent to the south-east of the appeal site. During the Phase 1 habitat survey of the appeal site this woodland was noted to be situated on a raised bank within a private garden and has been adversely impacted through clearance, excavation and tree felling. In addition, Paygate Wood ancient woodland is located to the west of London Road, approximately 15m from the appeal site.

5.3 Protected Species

5.3.1 **Bats.** No buildings or structures are present and none of the trees within the appeal site have features suitable to support roosting bats. The vast majority of bats recorded at the appeal site during the 2021 bat activity survey work were Common and Soprano Pipistrelle (>90% of all registrations), which are England's most common and widespread species.

[6] Per section 41 of the Natural Environment and Rural Communities (NERC) Act 2006

5.3.2 Very low numbers of registrations of other bat species were recorded on-site, including 'big bat' species (no more than 10 in one night), Long-eared Bat (three in total) and Myotis species (maximum 30 in one night). Only three registrations of Barbastelle, a rare species, were recorded (at the central north-south hedgerow) on two nights in September 2021, indicating the appeal site is not an important foraging or commuting resource for this species. Consistent results were recorded during the 2023 update surveys, with 88% of all bat calls attributed to Common and Soprano Pipistrelle and, again, only three calls from Barbastelle recorded.

5.3.3 In general, the surveys recorded greater bat activity along the central north-south hedgerow, which divides the two fields, and the area of on-site woodland in the southern field, with markedly lesser activity along the western boundary of the appeal site (adjacent London Road). Considering the bat species recorded on-site and the levels of bat activity detected during surveys, and taking account of the habitat types present and greater quality habitats located within the surrounding landscape, the appeal site is assessed to be of local level value to bats.

5.3.4 **Badgers.** No Badger setts were recorded on-site or immediately adjacent to the appeal site and no field signs were recorded on-site. During a bat activity survey in September 2021 a Badger was observed passing through the western field, from the direction of London Road, and entering Round Wood off-site. The survey evidence indicates the appeal site is subject to incidental use by Badgers but is not a particularly important resource for this species.

5.3.5 **Birds.** The appeal site contains potential foraging and nesting habitat for a range of bird species particularly in the form of the hedgerows and woodland, and it is likely that Priority Species (e.g. House Sparrow) utilise the appeal site. However, the habitats present are common in the surrounding area and there are also large areas of woodland, heathland and waterbodies of much higher value to birds in the local area. As such, it is unlikely the site supports an important bird assemblage or is of value beyond the site to local level for this species group.

5.3.6 **Dormice.** No Dormice were recorded during the surveys, indicating this species is likely absent from the appeal site.

5.3.7 **Great Crested Newts (GCN).** Two ponds are recorded on OS mapping within 250m of the appeal site (labelled P1 and P2 on Plan 6212/GCN of the Ecological Appraisal - **CD3.7**).

5.3.8 Access was not granted to pond P2. From a review of aerial mapping pond P2 appears to be an ornamental pond located to the front of a residential property with a hardstanding surround. Pond P1 is located approximately 30m from the site boundary within an area of long sward grass and scattered trees and has 'good' suitability for Great Crested Newt. As such an eDNA survey was completed in June 2021, which returned a negative result. It is therefore concluded that GCN are likely absent from the appeal site.

5.3.9 **Reptiles.** The appeal site is dominated by semi-improved grassland with a uniform sward which is of limited suitability for reptiles. It is therefore unlikely that the appeal site supports a resident reptile population. However, considering the known presence of reptiles within the local area there is the potential for individuals to enter the appeal site sporadically.

5.3.10 **Invertebrates.** No evidence for the presence of any protected, rare or notable invertebrate species was recorded within the appeal site. The appeal site is dominated by species-poor semi-improved grassland which is likely to support only a limited diversity of invertebrates. The site has mature hedgerows and woodland but otherwise contains relatively no micro-habitats that would typically indicate elevated potential for invertebrates, such as a variable topography with areas of vertical exposed soil, areas of species-rich semi-natural vegetation; variable vegetation structure with frequent patches of tussocks combined with short turf, etc. Accordingly, given the habitat composition present and lack of adjacent sites designated for significant invertebrate interest, the appeal site is not likely to support an important invertebrate assemblage.

5.4 Ecological Networks

5.4.1 As set out above at 5.1, the appeal site is not subject to any ecological designations and in Wealden there are no formally designated 'ecological networks', 'wildlife corridors', etc. In terms of the local ecological network, as illustrated in Figure 5.1 overleaf, the appeal site is surrounded by a number of ancient woodlands, including Paygate Wood to the west and Round Wood to the south-east. In addition, Priority Habitat woodland (The Warren) lies adjacent the northern boundary and Budlett's Common Rocks LWS lies 50m north. These are the key habitat components within the immediate local ecology network. There are other ecological features located further afield, e.g. Views Wood to the east and Buxted Park SSSI 500m east, however these are physically separated from the appeal site by existing dwellings and open agricultural land, and therefore are not connected to the appeal site.

5.4.2 Paygate Wood is separated from the appeal site by London Road and is separated from nearby Round Wood (which itself is a small, isolated pocket of woodland – as acknowledged in the Committee Report[7]) by the road plus a 60m wide section of open agricultural grassland. As such, there is currently no substantive ecological connection between Paygate Wood and Round Wood. Similarly, neither Paygate Wood nor Round Wood is connected to the Priority Habitat woodland and LWS to the north of the appeal site. The hedgerows and woodland present within the appeal site itself do not currently connect any of these key features identified within the local ecological network. As such, I conclude that the appeal site plays a very limited role in terms of the local ecological network; albeit there is potential for it provide improved linkages as a result of the appeal proposals (see Chapter 6 below).

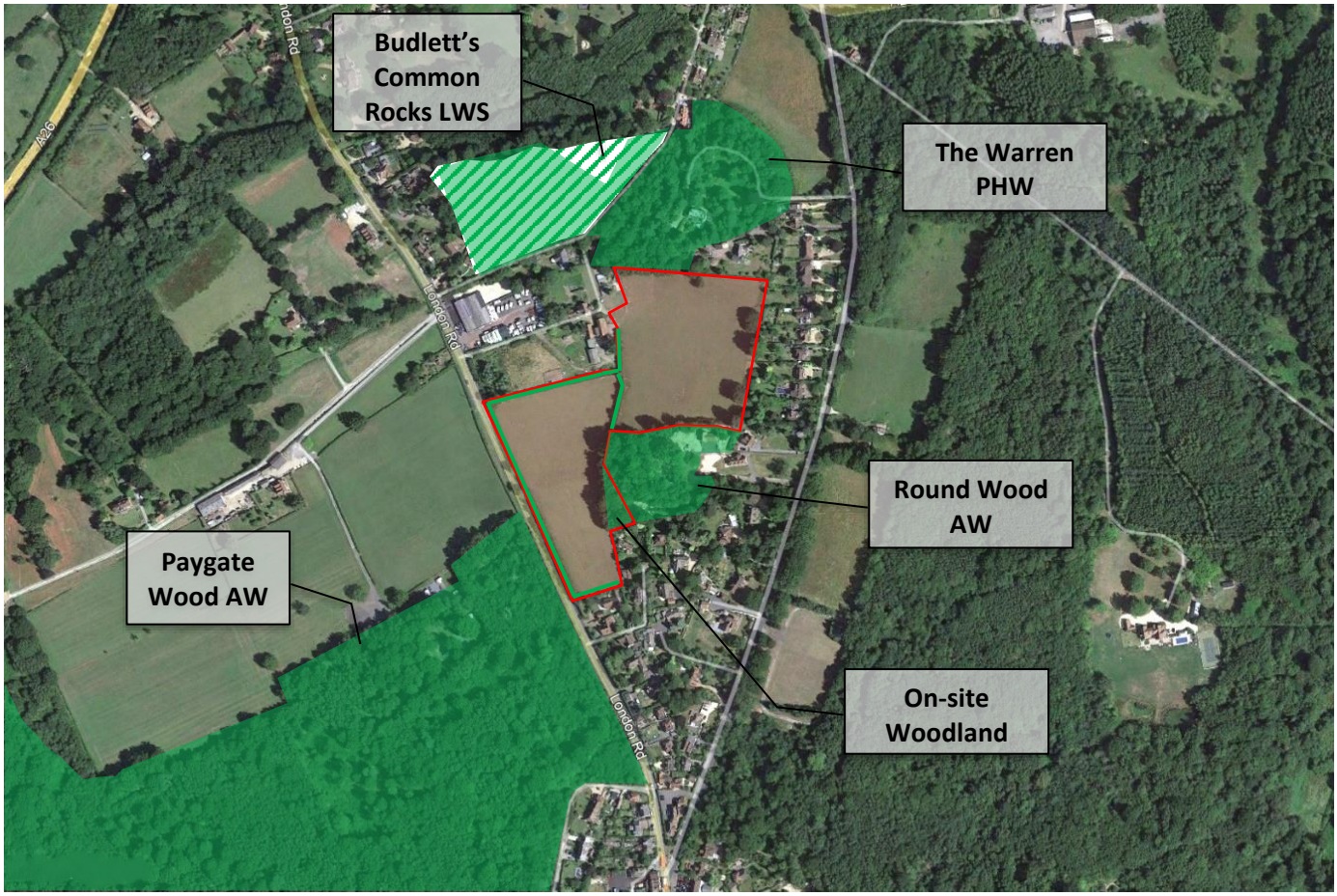


Figure 5.1 Illustration of local ecological network key components

(LWS – Local Wildlife Site, PHW = Priority Habitat Woodland, AW = Ancient Woodland)

[7] **CD5.1**, PDF p.73

6 Ecological Impact Assessment

6.1 Impacts on Ecological Designations

6.1.1 As set out in the 2022 Ecological Appraisal (**CD3.7** – Chapter 3), the appeal site itself is not subject to any statutory or non-statutory ecological designations, and none of the designations in the immediate area are likely to be affected by the appeal proposals. However, the appeal site falls within the 7km recreational zone of influence of Ashdown Forest SPA and the SAC is vulnerable to effects from air pollution, therefore there is the potential for adverse effects to arise given the residential nature of the proposals. However, as discussed in Chapter 7 below, and as concluded in the Council's Habitats Regulations Assessment[8] and Aspect Ecology's shadow HRA (**CD11.5**), mitigation can be implemented to avoid any adverse effects on the integrity of Ashdown Forest.

6.2 Impacts on Habitats

6.2.1 **On-site.** As summarised in Chapter 5 above, the only important ecological features within the appeal site are the hedgerows and woodland, which are Priority Habitats of site to local level value. No irreplaceable habitats are present within the appeal site. As shown on the Proposed Indicative Sketch Layout Plan (**CD3.1**), the on-site woodland is to be fully retained and buffered from development. The retained on-site woodland will be subject to standard arboricultural best practice safeguards during construction to prevent harm, such as damage to root protection areas, as referenced in the 2022 Ecological Appraisal (**CD3.7**, PDF p.34, para. 6.1.4). Such measures can be set out in a Construction Environmental Management Plan (CEMP), secured by a planning condition. There will be a net gain in woodland habitat as a result of the appeal proposals due to the creation of ~0.4ha of new native woodland, as shown on the Landscape Strategy Plan (**CD11.3**).

6.2.2 In order to provide a new vehicular access to the development from London Road and associated visibility splays, it will be necessary to remove a proportion of the existing hedgerow. In addition, to enable access between the western and eastern parcels, a gap in the central north-south hedgerow is required. However, as shown on the Landscape Strategy Plan (**CD11.3**), the loss of existing hedgerow habitat will be more than compensated by new, native hedgerow planting. Although the Landscape Strategy Plan is indicative, it shows that approximately 450m of new native hedgerow planting is proposed.

[8] **CD5.1** PDF p.83, final para.

6.2.3 Therefore, there will be a significant net gain in hedgerow habitat post-development compared to the existing baseline.

6.2.4 In terms of the loss of other habitats, for example species-poor semi-improved grassland, such habitats are not important ecological features, therefore their loss is not ecologically significant at the planning decision level. Therefore, no specific mitigation is required for the loss of such habitats, albeit the Landscape Strategy Plan includes new areas of wildflower grassland, tree planting, native shrub planting, etc.

6.2.5 **Off-site.** Round Wood ancient woodland is located off-site immediately adjacent to the south-east of the appeal site. This is a heavily degraded area of ancient woodland. A buffer from the built development of at least 15m will be included within the proposals, in accordance with standing advice[9], which will prevent any loss or deterioration of the woodland. This buffer will include the retained area of on-site woodland as well as new native scrub planting and enhanced grassland, therefore enhancing the woodland edge habitat. The implementation of tree protection, pollution and dust control safeguards will protect the ancient woodland habitat during construction, and the implementation of a sensitive lighting scheme will ensure the woodland can continue to be used by nocturnal fauna, including bats and Badgers (see 6.3 below).

6.2.6 In terms of potential hydrological impacts on Round Wood, e.g. changes to surface or ground water supply to the woodland or increases in pollutant run-off, the topographical survey of the appeal site shows that the land to be developed falls away from Round Wood. In addition, Round Wood is situated on an embankment. Therefore, there is no physical impact pathway through which such adverse hydrological effects on Round Wood could occur as a result of development of the appeal site.

6.2.7 Furthermore, the Flood Risk Assessment concludes (**CD3.9**, PDF p.4, para. 1.5) that the appeal site is not at risk of flooding and can be developed safely without increasing flood risk elsewhere, and that suitable drainage schemes for the disposal of surface water can be provided. In addition, the FRA notes the proposed residential development has a very low to low pollution hazard risk and any residual risks can be effectively mitigated through pollution control measures (**CD3.9**, PDF p.17, paras. 7.34 – 7.36).

[9] Forestry Commission & Natural England (2022) *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions* – see Appendix DS5

6.2.8 Paygate Wood ancient woodland is physically separated from the appeal site, being located on the opposite side of London Road. As such, the appeal proposals will not have an adverse effect on the woodland, subject to the implementation of suitable construction safeguards and the proposed drainage strategy, as described above. Similarly, the area of off-site woodland immediately north of the appeal site (The Warren) will not be adversely affected by the proposed development subject to the same safeguards / drainage strategy.

6.3 Impacts on Protected Species

6.3.1 **Bats - roosting.** No buildings or structures are present and none of the trees within the appeal site have features suitable to support roosting bats. Trees with features suitable to support roosting bats were recorded in the adjacent Round Wood and there may be roosting opportunities in association with the off-site woodland to the north, and farm buildings to the north-west. However, subject to suitable lighting control measures (see below), any potential bat roosts present within these off-site locations are unlikely to be affected by the proposed development. There will be a net gain in roosting opportunities for bats as a result of the appeal proposals, due to the installation of bat boxes and in the much longer term a proportion of the new tree planting will potentially develop features suitable for roosting bats.

6.3.2 **Bats – commuting / foraging.** As discussed in Chapter 5 above, the appeal site as a whole is assessed to be of no more than local level value to bats, based on the survey results and also given that far superior opportunities for bats are present in the immediate area, including extensive areas of woodland and riparian habitat. The key features used by bats within the appeal site during the surveys were the central north-south hedgerow, which divides the two fields, and the area of on-site woodland in the southern field, with markedly lesser activity along the western boundary of the appeal site (adjacent London Road).

6.3.3 The central hedgerow is to be retained but will be punctured by a proposed access road. However, the gap that will be created in the hedgerow has been minimised through careful design as far as possible and will be less than 10m wide, meaning bats will still be able to navigate across the gap and along the hedgerow[10]. The area of on-site woodland is to be fully retained and indeed expanded as part of the new woodland planting proposed immediately adjacent.

[10] **CD8.5** – BCT Landscape and urban design for bats and biodiversity

6.3.4 The woodland planting will provide valuable new foraging habitat for bats, particularly for species such as Barbastelle which favour woodland, and will link up Round Wood to the south-east with Paygate Wood to the west. In addition, the proposed new native hedgerow planting at the site boundaries will serve to link up Round Wood with The Warren to the north of the appeal site, providing improved connectivity for bats.

6.3.5 There will be some severance of the hedgerow along London Road due to the proposed creation of a vehicular access and associated visibility splays, however this feature was not heavily used by bats during the surveys and hence is not an important commuting link for bats – indeed the hedgerow is already severed by existing development to the north and south and so provides no substantive connectivity to the wider area. Furthermore, general north-south connectivity for bats along London Road will be maintained by the existing hedgerow located on the opposite side of the road, parallel with the on-site hedgerow. Replacement native hedgerow planting behind the visibility splays is proposed to help minimise the impact and, as noted above, there will be a net gain in hedgerow habitat across the appeal site as a whole.

6.3.6 **Lighting.** Artificial lighting is known to adversely affect the commuting and foraging behaviour of certain species of bats. The effects of artificial lighting on bats are dependent on factors such as the type and intensity of lighting used. Although species such as Pipistrelle, Noctule and Serotine are relatively tolerant of lighting and will feed on invertebrates attracted to artificial light sources, other bat species, including *Myotis* species, Long-eared Bats, Barbastelle, and Horseshoe Bats have been shown to avoid areas of artificial lighting and divert commuting routes as a result of increased illumination.

6.3.7 As discussed previously, approximately 90% of the bat activity recorded during the survey work was from Pipistrelle bats, which are light-tolerant, with only relatively low levels of activity from light-averse species. Therefore, the likelihood of the appeal proposals giving rise to significant adverse effects on local bat populations due to lighting is relatively low. Nonetheless, appropriate mitigation will be implemented to minimise the effects of artificial lighting on bats (and other nocturnal fauna, e.g. Badgers). For example, development has been set back at least 15m from off-site Round Wood and at this distance lighting from the proposed development would not be expected to trespass into the woodland. In addition, the retained on-site woodland and hedgerows are largely buffered from the proposed development and so will not be subject to illumination associated with street lighting or domestic lighting from new dwellings.

6.3.8 There is potential for unsympathetic lighting, e.g. floodlit security lighting, installed by residents to illuminate existing and proposed boundary habitats, where new dwellings back on to such features. However, in general such lighting is relatively low intensity and often controlled by motion sensors rather than being on permanently throughout the night, therefore the potential effect on bats is likely to be limited. Nonetheless, in accordance with best practice guidance[11], the detailed design of the scheme can provide for good quality downward-directional external light fittings for security, and/or at the front entrance of new dwellings, on short PIR timers, rather than risk the imposition of poor quality and poorly controlled lighting at a later date.

6.3.9 Care will be required with respect to avoiding illumination of the central north-south hedgerow and the new woodland planting, however this can be readily achieved by careful placement, spacing, design and operating parameters of the street lighting. The precise details of a sensitive lighting scheme can be conditioned as part of the grant of planning consent, as per the Committee Report, which includes template condition wording (**CD5.1**, PDF p.11). Such a sensitive lighting scheme will follow the principles already set out in Aspect Ecology's 'Technical Note 01: Ecological Design Principles for the Detailed Lighting Strategy', dated October 2023 (**CD11.6**).

6.3.10 **Badgers.** No Badger setts were recorded on-site or immediately adjacent to the appeal site and no field signs were recorded on-site during the previous surveys. However, the appeal site is subject to incidental use by Badgers, therefore there is a risk of harm to Badgers, for example during the construction phase of the proposed development. This risk can be effectively mitigated through standard construction safeguards, as detailed in the 2022 Ecological Appraisal (**CD3.7**, PDF p.36, para. 6.1.7). Badgers will be able to continue to pass through the appeal site post-development, due to the inclusion of green spaces.

6.3.11 **Birds.** The appeal site is unlikely to support an important bird assemblage and subject to the implementation of standard safeguards to protect nesting birds (per **CD3.7**, PDF p.37, para. 6.1.12), no adverse effects on local bird populations are anticipated. On the contrary, there will be a net gain for birds as a result of habitat creation and artificial nest provision associated with the appeal scheme.

6.3.12 **Dormice.** No Dormice were recorded during the surveys and no adverse effects on this species are therefore anticipated as a result of the appeal proposals.

[11] **CD8.4**, PDF p.31 - BCT/ILP Guidance Note 08/23 – Bats and Artificial Lighting at Night

6.3.13 On the contrary, there will be a net gain for this species as a result of beneficial habitat creation, including new hedgerow and woodland planting.

6.3.14 **Great Crested Newts.** The previous survey results indicate GCN are likely absent from the appeal site, therefore no adverse effects on this species are anticipated as a result of the appeal proposals.

6.3.15 **Reptiles.** The appeal site is unlikely to support a resident reptile population, however, given the known presence of reptiles within the local area there is the potential for individuals to enter the site sporadically. However, subject to implementation of appropriate, precautionary safeguards during construction (per **CD3.7**, PDF p.37, para. 6.1.11), it is unlikely reptiles will be adversely affected as a result of the appeal proposals. On the contrary, there will be a net gain for this species as a result of beneficial habitat creation, including new wildflower grassland, hedgerow and woodland planting.

6.3.16 **Invertebrates.** The appeal site is not likely to support an important invertebrate assemblage and no adverse effects are anticipated as a result of the appeal proposals, and no specific mitigation is required. Invertebrates will benefit from the new habitat creation associated with the appeal proposals, including new wildflower grassland, native shrub, hedgerow and woodland planting.

6.3.17 The faunal safeguards described above can be secured by condition (see **CD5.1**, PDF p.11).

6.4 Impacts on Local Ecological Network

6.4.1 As described previously in Chapter 5, the key habitat components within the immediate local ecology network are Paygate Wood and Round Wood ancient woodlands, Priority Habitat woodland (The Warren), and Budlett's Common Rocks LWS. As illustrated previously in Figure 5.1, these features are currently rather disconnected from one another. Connectivity between the features and the local ecological network in general will be improved as a result of the appeal proposals, due to the proposed additional boundary hedgerow planting and new woodland creation. As acknowledged in the Committee Report (**CD5.1**, PDF p.73), the proposed development would:

*'. . . **enable provision of an enriched connection between the currently isolated [ancient woodland] and larger expanses of [ancient woodland] to the west which in turn would enhance habitat used by protected species**. The proposed density would enable any reserved matters to enhance the retained existing planting around the site.'*

6.5 Summary

6.5.1 In summary, as concluded in the 2022 Ecological Appraisal, subject to the implementation of appropriate avoidance, mitigation and compensation measures, the appeal proposals will not result in any significant harm to biodiversity. On the contrary, the proposals provide various net gains for biodiversity, including new habitat creation for flora and fauna, and enhanced connectivity with the local ecological network. The proposals are therefore consistent with the provisions of para. 185 of NPPF and Policies EN13 and EN15 of the Local Plan. The proposals also assist the Council in achieving its environmental objectives under Core Strategy Policy WCS12.

7 Impacts on Ashdown Forest SAC and SPA

7.1 Background

7.1.1 As set out previously in Chapter 5, Ashdown Forest Special Protection Area (SPA) is located approximately 3km north of the appeal site. The SPA is classified for supporting more than 1% of the British breeding population of Nightjar (*Caprimulgus europaeus*) and Dartford Warbler (*Sylvia undata*). Overlapping much of the Ashdown Forest SPA is the Ashdown Forest Special Area of Conservation (SAC), which is located approximately 3.4km north of the appeal site at its closest point. The SAC is selected for the presence of the Annex I habitats 'Northern Atlantic wet heaths with *Erica tetralix*' and 'European dry heaths'. The Annex II species Great Crested Newt is present as a qualifying feature, but not a primary reason for selection of the site.

7.1.2 Ashdown Forest is sensitive to a number of potential adverse impacts associated with new development, including a reduction in air quality due to increased traffic on roads passing through the SAC and increased recreational activity within the SPA. Accordingly, during determination of the appeal application, the Council, as competent authority, carried out a Habitats Regulations Assessment[12]. In addition, to assist the Planning Inspector, who is now the competent authority, Aspect Ecology has prepared a shadow HRA (**CD11.5**), which mirrors the Council's own HRA and provides detailed descriptions of the SAC and SPA, and associated conservation objectives. A brief summary of the findings of the sHRA is presented below.

7.2 HRA Findings

7.2.1 Given the separation distance from Ashdown Forest (~3km), direct effects such as physical damage or pollution from contaminated surface water run-off as a result of the appeal proposals would not occur. In addition, the appeal site does not provide supporting or functionally-linked habitat for any of the qualifying species of the SPA. There is, however, the potential for indirect effects to occur at Ashdown Forest as a result of development of the appeal site, such as increased air pollution from additional traffic on roads through the SAC, which can affect the qualifying habitats, and increased recreational pressure from new residents, which may affect ground-nesting birds.

[12] **CD5.1** PDF p.83, final para.

7.2.2 **Air pollution.** As set out in the sHRA, Natural England advice is that:

a) improvements in vehicular technology will outweigh impacts from new development, and;

b) the expected increase in Nitrogen levels from additional transport would fall below the level that would reduce species richness on the SAC, even if the expected declining trend in Nitrogen failed to materialise.

7.2.3 Accordingly, it is unlikely the proposed development would result in significant adverse effects on the qualifying features of the SAC due to air pollution, either alone or in-combination with other developments.

7.2.4 **Recreational pressure.** The appeal site is located ~3km to the south of Ashdown Forest SPA at its closest point, which falls within the 7km recreational zone of influence identified by Core Strategy Policy WCS12. Given this distance, it is unlikely residents of the proposed development would walk to the SPA, although it is reasonably accessible by car.

7.2.5 The appeal site is proposed for development of 60 dwellings. This equates to approximately 2% of the number of dwellings proposed within 7km of the SPA under the draft Wealden Local Plan (a total of 2,981 dwellings). In terms of likely increase in visitor numbers, based on visitor survey data, it is estimated that 100 new dwellings in Uckfield would result in an additional 3.9 visits per 16 hour period to the Forest. Accordingly, the proposed development is estimated to result in an additional 2.34 visits per 16 hour period, or 0.146 visits per hour. This would equate to an increase of 0.035% relative to existing visitor use, or one additional visit for every 2,359 existing visits (based on visits per hour as determined by the visitor survey data).

7.2.6 This is a very minor increase, such that the anticipated unmitigated effect of the proposed development in terms of recreational pressure is likely to be negligible. Nevertheless, in the context of cumulative increases in recreational activity, it is acknowledged that such an increase could contribute to an overall significant effect, such that an adverse effect on integrity could occur in combination with other plans or projects.

7.3 Mitigation

7.3.1 Wealden District Council is subject to the Joint Strategic Access Management and Monitoring (SAMM) Strategy, which has been developed by Local Authorities in conjunction with Natural England and sets out mitigation measures to ensure new residential

development and any associated recreational disturbance impacts on European sites are compliant with the Conservation of Habitats and Species Regulations 2017, as amended.

7.3.2 The aim of the SAMM strategy is to:

- Raise awareness and build visitor understanding of the importance and sensitivity of ground nesting birds and their habitats within the SPA as part of the wider education and heathland management programme;
- Promote alternative recreational spaces (SANGs) for local people especially in the breeding bird season;
- Promote and enforce where necessary the Code of Conduct for dog walkers;
- Encourage responsible dog walking and behavioural change as set out in the Code of Conduct;
- Provide new and additional volunteering opportunities such as Volunteer Dog Rangers in the delivery of advice and on-site support to ensure and promote responsible behaviour and use of the Ashdown Forest SPA;
- Contribute to the existing Ashdown Forest education programme to deliver outcomes that relate to the required mitigation measures in relation to Ashdown Forest SPA; and
- Help coordinate and support bird monitoring on the Ashdown Forest SPA and undertake visitor monitoring on the Ashdown Forest SPA and at SANG sites. This will be used to:
  - Ensure that projects are effective;
  - Inform the direction of strategic access management; and
  - Measure the effectiveness of avoidance and mitigation measures.

7.3.3 A financial contribution can be agreed and collected from the developer prior to commencement, on the basis that it can be used to fund the above strategic off-site measures. The appellant is prepared to agree to the required contribution to SAMMS, in addition to the required SANGS contribution, therefore it is concluded that appropriate mitigation can be secured to offset the potential in-combination recreational effects on Ashdown Forest SPA. The same conclusion is reached in the Council's HRA (**CD5.1**, PDF p.83):

*'In conclusion, subject to the mitigation discussed above and secured through the planning obligation, **the scheme would not adversely affect the integrity of the SPA in view of the site's conservation objectives**.'*

8 Biodiversity Net Gain (BNG)

8.1 Legislative and Policy Context

Environment Act 2021

8.1.1 As set out in Chapter 3, the Environment Act introduces a mandatory requirement for a 10% biodiversity net gain for all qualifying new developments. However, it does not apply to planning applications submitted prior to the mandatory BNG requirement taking effect, therefore it is not relevant to the appeal application.

National Planning Policy Framework (NPPF)

8.1.2 Para. 180 of NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

'*minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*'.

Local Policy

8.1.3 There is no local policy requirement for developments to achieve BNG.

8.2 2023 BNG Assessment

8.2.1 Notwithstanding the absence of a mandatory or local policy requirement to achieve BNG, in order to demonstrate what level of BNG is achievable under the proposed development, a BNG assessment has been carried out by Aspect Ecology using the latest Metric available at the time (version 4.0) – refer to Aspect's Biodiversity Net Gain Assessment, September 2023 (**CD11.4**). The baseline data used for the assessment has been updated to reflect current site conditions, based on a survey visit carried out by Aspect Ecology in August 2023. The post-development habitat measurements are based on the Landscape Strategy Plan (**CD11.3**).

8.2.2 In summary, the BNG assessment calculates that the proposals will result in a **~1% net gain in habitat units** and a **~68% net gain in hedgerow units**. The BNG assessment is conservative in nature and a higher score in habitat units could be achieved, for example by providing grassland in place of woodland, which scores poorly due to the time required to achieve target condition. This is a limitation of the Metric, which does not recognise more qualitative ecological benefits, such as improved woodland connectivity.

8.2.3 The key elements of the landscape scheme (**CD11.3**) that contribute to the biodiversity net gains are the creation, enhancement and/or planting of:

- wildflower grassland;
- broadleaved woodland;
- native mixed scrub;
- trees;
- species-rich native hedgerow.

8.2.4 The above habitats will be subject to appropriate, ecologically-guided management to ensure the biodiversity potential of the proposals is maximised. The creation and management of the above features can be secured by a suitable planning condition requiring submission of a Landscape and Ecological Management Plan (LEMP).

8.2.5 In addition to the above habitat creation measures, as set out in the 2022 Ecological Appraisal (**CD3.7** – PDF pp. 38 - 39, paras. 6.2.6 – 6.2.11) the following faunal enhancements are proposed (details of which can be secured via the LEMP):

- bat boxes erected on trees and/or roost features integrated into a proportion of new dwellings;
- bird boxes erected on trees and/or nest features integrated into a proportion of new dwellings;
- hedgehog nest domes;
- habitat piles and nectar sources for invertebrates, e.g. beetles, bumblebees, woodlice, etc.;
- bee bricks within a proportion of new dwellings to provide nesting opportunities for declining populations of non-swarming solitary bees.

8.2.6 Such faunal enhancements are not quantified within the Metric and do not contribute to the BNG scoring but provide additionality, helping to achieve beneficial nature conservation outcomes.

8.2.7 In summary, the proposals will provide net gains for biodiversity, in accordance with the environmental objective set out at para. 180 of NPPF.

9 Review of 3rd Party Comments

9.1 Uckfield Town Council (UTC)

9.1.1 UTC wrote to the Planning Inspectorate on 30/11/2023 setting out its objection to the appeal application. I set out below the ecology components of UTC's objection along with my response to each point raised.

'Impact on ancient woodland, wet woodland and hydrology

Uckfield Town Council challenges the application on the grounds that the development would be contrary to the preservation of the ancient woodland on this site known as Round Wood and adjacent parcels of ancient woodland in the Coopers Green/Buxted Park area. The proposed development would sit cheek by jowl with key priority habitats which link the ancient woodland and wet woodland habitats between Buxted Park SSSI through to West Park Local Nature Reserve. The site also has evidence of protected species reflective of the characteristics of this open countryside. The proposed development is contrary to the National Planning Policy Framework (NPPF) section 180c and Wealden Local Plan policies. The proposed changes would fragment the habitat corridors between these woodlands and risk loss, harm and deterioration to hedgerows evident within the area from historical mapping.

Any changes to the geology and hydrology on this site would be detrimental to the hydrology, and future of the wet and ancient woodlands not just in Coopers Green but also on the opposite side of London Road from Budletts Common heading west. The development is therefore contrary to Wealden DC's Adopted Local Plan 1998 EN1.'

9.1.2 Impacts on ancient woodland, Priority Habitats, ecological connectivity, protected species and hydrology are dealt with in Chapter 6 above. In summary, and as concluded in the Committee Report (**CD5.1**, PDF p.73), suitable mitigation has been identified to safeguard the relevant ecological features within and adjacent the site.

9.1.3 Furthermore, the proposed development would enable provision of an enriched connection between the currently isolated Round Wood ancient woodland and larger expanses of ancient woodland to the west, which in turn would enhance habitat used by protected species.

'Impact on biodiversity and ecological value of the site, and connecting areas

This development would detrimental to the biodiversity of species in this important green corridor at the north of Uckfield. Uckfield Town Council will challenge the application on, the:

- *lack of sensitivity and consideration for the High Weald landscape;*
- *loss and deterioration the application will cause to irreplaceable habitats;*
- *fragmentation it will cause to an integral green corridor of rich ecological habitats, which will therefore be contrary to National Planning Policy Framework (NPPF) policies section 174b, 180a and 185, BAP Priority, therefore conflicting with NPPF 15, Regulation 63 of The Conservation of Habitats and Species Regulations 2017 and Wealden DC's Adopted Local Plan 1998 EN15 and 16. Further detailed assessments and mapping would be required to understand the potential harm to the various species of wildlife including bat species, rare acid grassland, Sussex rare wet grassland, and ancient wet woodland in this area.'*

9.1.4 Regarding the first bullet point above, this refers to landscape rather than ecology matters and as such I do not comment further. Regarding the second bullet point, as demonstrated in Chapter 6, the only irreplaceable habitats of relevance are the off-site areas of ancient woodland, which will be appropriately safeguarded such that there will be no loss or deterioration of these features, as agreed with the Council. Regarding the third bullet point, as already addressed above at para. 9.1.2, subject to mitigation there will not be any appreciable fragmentation of important ecological features; on the contrary, the appeal proposals will provide improved connectivity for local habitats. Impacts on bats are dealt with at section 6.3 of my statement above. As concluded by the Council, the Proposed Indicative Sketch Layout Plan (**CD3.1**):

*'. . . **alleviates concerns raised related to impacts upon local ecological network, ecological connectivity and local bat populations/fragmentation of habitats**.'*

9.1.5 The reference to '*rare acid grassland, Sussex rare wet grassland, and ancient wet woodland in this area*' is presumably a reference to Buxted Park SSSI, located approximately 500m the east of the appeal site, which is described, mapped and assessed within the 2022 Ecological Appraisal[13].

[13] **CD3.7** – PDF pp. 12-13 & PDF p.44, Plan 6212/ECO3

9.1.6 As concluded at section 6.1 above, given the physical separation involved, no adverse effects on the SSSI are anticipated as a result of the appeal proposals. Therefore, no further detailed assessment or mapping is required, and no such further work was requested by the Council during determination of the appeal application.

9.2 Mockbeggars Residents' Steering Group (MRSG)

9.2.1 As set out in Chapter 2 above, Mockbeggars Residents' Steering Group was initially granted Rule 6 status, however it has subsequently advised it is not able to proceed as a Rule 6 Party. MRSG's Statement of Case dated 11/12/2023 notes (para. 1.1) that MRSG '*reflect the views of the 63 households who wrote to object against the original planning application*'. I therefore consider below the ecology issues raised by MRSG rather than responding to issues raised by the 63 households individually.

9.2.2 In summary, MRSG's Statement of Case does not include a specific section on ecology or biodiversity but there are several paragraphs that are broadly relevant, which I highlight and address below.

'2.10. The NCA Profile for the High Weald places considerable emphasis on the presence of 'sandrock' (Ardingly Sandstone) outcrops, which form a distinctive part of the landscape character and also help to support much of the area's biodiversity. Excellent examples of these are present directly adjoining the Mockbeggars Farm site, confirming the relevance of the NCA description, and are instrumental in supporting the continuity of this landscape character. . .'

9.2.3 The above paragraph refers to areas of sandstone outcrops that help to support the area's biodiversity and implies that such features are present directly adjoining the appeal site. According to the desktop study carried out as part of the 2022 Ecological Appraisal (**CD3.7**), the nearest designated site supporting such features is Budlett's Common Rocks Local Wildlife Site (LWS), situated approximately 50m north of the appeal site (see **CD3.7** – PDF p.44, Plan 6212/ECO3). The LWS consists of extensive rocks situated in three large gardens, which support a number of rare and uncommon liverworts and mosses, including a number of characteristic sandrock species. As concluded in Chapter 3 of the 2022 Ecological Appraisal (**CD3.7** – PDF p.16, para. 3.2.2), the LWS is physically separated from the appeal site (by a distance of 50m), therefore it is unlikely the appeal proposals would lead to any adverse effects.

'*2.12. In conclusion, with respect to landscape character, we will refer to page 5 of the NCA profile which arguably describes what planners should be seeking to achieve in this area. Whilst we accept that this is a 'Strategic Environmental Opportunity', rather than an adopted policy, we believe that it is extremely relevant to the emerging concept of a Local Nature Recovery Strategy for this area and should be afforded considerable weight. . .*'

9.2.4 As above, Local Nature Recovery Strategies are an emerging concept and are intended to provide an England-wide system of spatial strategies that will establish priorities and map proposals for specific actions to drive nature's recovery and provide wider environmental benefits. LNRS can also support a strategic approach to off-site BNG delivery, agreeing evidence-based locations to expand and connect existing habitat. LNRS also play a role in BNG by determining the 'strategic significance' multiplier within the biodiversity metric, which provides an incentive for developers to align with the LNRS in their area when choosing the location of off-site BNG units. East Sussex County Council has been appointed as the Responsible Authority for preparation of the LNRS for East Sussex. However, no such LNRS has been published to date and as such, contrary to MRSG's comment above, no weight can be afforded to this issue in determination of the appeal application.

10 Summary & Conclusions

10.1 It is common ground that the Council raises no objection to the appeal proposals on ecology grounds and that the Council's Biodiversity Officer is able to support the proposed development (**CD5.1**, PDF p.73).

10.2 The appeal site is not subject to any statutory or non-statutory ecological designations and no such designations lie adjacent. The appeal site lies within the 7km recreational zone of influence surrounding Ashdown Forest Special Protection Area (SPA). However, as concluded within the Council's Habitats Regulations Assessment (**CD5.1**, PDF p.83) and Aspect Ecology's shadow HRA (**CD11.5**), subject to mitigation being secured through a suitable planning obligation in relation to financial contributions to strategic off-site measures (SAMMS and SANGS), there will be no adverse effects on the SPA, either alone or in-combination with other plans or projects, as a result of the appeal proposals.

10.3 The only habitats qualifying as important ecological features within the appeal site are the hedgerows and woodland, which are Priority Habitats of local level value. No irreplaceable habitats are present within the appeal site. As shown on the Proposed Indicative Sketch Layout Plan (**CD3.1**), the on-site woodland is to be fully retained and buffered from development, and will be safeguarded during construction (**CD3.7**, PDF p.34, para. 6.1.4). Such measures can be set out in a Construction Environmental Management Plan (CEMP), secured by a planning condition. There will be a net gain in woodland habitat as a result of the appeal proposals due to the creation of ~0.4ha of new native woodland, as shown on the Landscape Strategy Plan (**CD11.3**). Sections of existing hedgerow habitat will be lost to facilitate access and visibility splays for the proposed development, however, the loss of habitat will be more than compensated by new native hedgerow planting, resulting in a significant net gain in hedgerow habitat post-development.

10.4 Round Wood ancient woodland (irreplaceable habitat) is located off-site immediately adjacent to the south-east of the appeal site. This is a heavily degraded area of ancient woodland. A buffer from the built development of at least 15m will be included within the proposals, in accordance with standing advice, which will prevent any loss or deterioration of the woodland. In addition, the implementation of relevant safeguards will protect the ancient woodland habitat during construction, and the implementation of a sensitive lighting scheme will ensure the woodland can continue to be used by nocturnal fauna, including bats and Badgers.

10.5 Paygate Wood ancient woodland is physically separated from the appeal site, being located on the opposite side of London Road. As such, the appeal proposals will not have an adverse effects on the woodland, subject to the implementation of suitable construction safeguards and a suitable drainage strategy. Similarly, the area of off-site woodland immediately north of the appeal site (The Warren) will not be adversely affected by the proposed development subject to the same safeguards / drainage strategy.

10.6 With respect to the local ecological network, the appeal proposals present the opportunity to link up a number of existing off-site habitats, in particular the proposed new woodland planting would assist in improving connectivity between areas of ancient and Priority Habitat woodland.

10.7 Regarding protected species, the appeal site has been confirmed as being used by bats, badgers and birds, with potential for incidental use by other species such as reptiles. Subject to implementation of appropriate safeguards during site preparation and construction, all relevant species will be adequately protected. Furthermore, appropriate habitat will be retained and/or created within the appeal scheme for these species, ensuring no significant harm to local populations; on the contrary, a number of benefits will accrue such as a net gain in roosting opportunities and enhanced connectivity for bats. A sensitive lighting scheme will be implemented to ensure the potential adverse effects of artificial lighting at night on nocturnal species (e.g. bats) are appropriately mitigated.

10.8 As acknowledged in the Council's Committee Report, the proposed development would provide the opportunity for biodiversity gain. A Biodiversity Net Gain assessment has been carried out, which demonstrate that the appeal scheme will deliver measurable net gains in both area habitat and linear hedgerow units.

10.9 I conclude that the proposals are fully compliant with relevant provisions of legislation and policy, including in particular NPPF paragraph 185, Core Strategy Policy WCS12 and Local Plan Saved Policies EN13 and EN15. In conclusion, there is no ecological impediment to the grant of planning permission, subject to the imposition of suitable planning conditions securing details of the relevant ecological mitigation and enhancement measures, including a Construction Environment Management Plan (CEMP), Landscape and Ecological Management Plan (LEMP) and sensitive lighting scheme.

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