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Land south of Tadmarton Road, Bloxham

## APPEAL HEARING STATEMENT ON ECOLOGY

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The conclusions and recommendations contained in this document are based upon information gathered by TEP and provided by third parties. Information provided by third parties and referred to herein has not been independently verified by TEP, unless otherwise expressly stated in the document.

Nothing in this report constitutes legal opinion. If legal opinion is required, the advice of a qualified legal professional should be secured.

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# 1.0 Executive Summary

## Introduction

- 1.1 The statement has been prepared by The Environment Partnership (TEP) Ltd on behalf of Gladman Developments Ltd. in respect of the appeal against the refusal of outline planning application (Ref: 23/01265/OUT) for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage systems (SuDS) and vehicular access point with all matters reserved except for means of access. TEP was responsible for the production of the Preliminary Ecological Appraisal (PEA) which accompanied the outline planning application. TEP was also responsible for the subsequent completion of the additional ecological surveys recommended within the PEA and production of an updated Ecological Impact Assessment (EclA).
- 1.2 This statement addresses the fourth Reason for Refusal (RfR) which relates to ecology effects: *‘Based on the advice from the Council’s Ecologist, further ecological investigation needs to be carried out before it is known whether the proposed development would be harmful to biodiversity on site. The evidence currently available demonstrates likely detrimental impact to protected species and their habitat and without more detailed investigation the Local Planning Authority cannot be assured that the harmful impacts could be mitigated and/or compensated. Accordingly, and based on precautionary principles, the proposals would be contrary to Policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1, Regulation 43 of Conservation of Habitats & Species Regulations 2017 and Government guidance at paragraphs 170, 175 and 180 within the National Planning Policy Framework’.*
- 1.3 This statement therefore:
- *Provides the results of the further surveys completed for protected and/or notable species;*
  - *Confirms that the proposals will not have significant negative impacts on ecological features;*
  - *Confirms that the proposals can in fact deliver a significant net gain in biodiversity; and*
  - *Based on the above points, confirms that the proposals are in compliance with the relevant paragraphs of the NPPF and policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1.*

## Existing Ecological Baseline

- 1.4 The ecological baseline is summarised within Section 3 of this hearing statement.
- 1.5 There is one locally important designated wildlife site within 2km of the site; this is The Slade Local Nature Reserve.
- 1.6 The arable, bare ground, hard standing, and tall ruderal habitats that dominate the site are of low intrinsic ecological value, providing limited function for protected and notable species. The habitats with the greatest relative ecological value are the hedgerows, woodland and pond within the site, and stream to the south of the site.
- 1.7 No definitive evidence of badger activity was recorded within the site, although a potential sett was located outside of the site. Likewise, no evidence of otter was recorded within the site, although an otter print was recorded on the stream outside of the site to the south.
- 1.8 At least six bat species were confirmed as present within the site during the surveys, with calls by common pipistrelle overwhelmingly dominating the calls recorded. Low numbers of calls by soprano pipistrelle, Myotis species, noctule, brown long-eared bat and serotine were also recorded. The site was assessed as supporting a bat assemblage of no more than Local importance.
- 1.9 Thirty-seven bird species were recorded within the site boundary and 100m survey buffer during the 2023 breeding bird survey; 23 species were recorded within the site itself. No species were confirmed to be breeding within the site during the 2023 surveys.
- 1.10 Great crested newt, hazel dormouse, significant reptile populations, white-clawed crayfish, water vole and an important assemblage of invertebrates were either confirmed as absent, or assessed as unlikely to be present within the site.

## Ecological Effects

- 1.11 Section 4 of this hearing statement provides an assessment of potential impacts.

- 1.12 Subject to a hydrological assessment and mitigation/monitoring plan (to be secured by way of an appropriately worded condition), the inclusion of standard pollution prevention and dust control measures within a Construction Environmental Management Plan (CEMP) and implementation of a SUDs drainage system, no significant impacts on any statutory or non-statutory designated wildlife sites are anticipated.
- 1.13 No significant impacts are anticipated on habitats assessed as having higher ecological value within the site, including woodland, hedgerows, the pond, scrub, scattered trees, wet ditches or the stream to the south of the site. Arable and bare ground habitats, which are of limited intrinsic ecological value, will be lost to development. Through on-site measures the development is expected to achieve a net gain of 3.86 Biodiversity Units (BU), equating to a 37.33% net gain for area-based habitats, and a net gain of 3.38 BU, equating to a 127.93% net gain for linear-based (hedgerow) habitats.
- 1.14 Subject to the implementation of precautionary working measures and other mitigation and enhancement measures, no significant impacts on protected and/or notable species are anticipated. No licensing will be required for protected species.

## Conclusion

- 1.15 In conclusion, the proposals are in compliance with the relevant paragraphs of the NPPF and policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan. Subject to the implementation of recommended mitigation measures, the proposals will avoid significant negative impacts on important ecological features. The scheme will result in provision of a significant net gain in biodiversity through onsite measures. Finally, the Appellant is in agreement with the topics suggested by the Ecology Officer to be addressed via appropriately worded conditions. On this basis there is no reason to refuse the appeal on ecology grounds.



## 2.0 Introduction

### Company Experience

- 2.1 This Hearing Statement in respect of Ecology has been prepared by a Chartered Environmentalist (CEnv) and full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) at The Environment Partnership (TEP) Ltd.
- 2.2 TEP is a business established in 1997 which employs ecologists, arboriculturists, planners, landscape architects and other environmental professionals. TEP is regularly commissioned by public and private sector clients to provide professional advice on assessment of environmental effects, prepare detailed landscape and ecological designs and support the implementation of developments.

### Summary of Instruction

- 2.3 This Hearing Statement has been prepared in relation to the appeal against the decision of Cherwell District Council to refuse outline planning permission (LPA Ref 23/01265/OUT) for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage systems (SuDS) and vehicular access point with all matters reserved except for means of access.
- 2.4 The application was considered by Committee on 10th August 2023 and was refused. The Reason for Refusal (RfR) of relevance to Ecology matters is:
- ‘4. Based on the advice from the Council’s Ecologist, further ecological investigation needs to be carried out before it is known whether the proposed development would be harmful to biodiversity on site. The evidence currently available demonstrates likely detrimental impact to protected species and their habitat and without more detailed investigation the Local Planning Authority cannot be assured that the harmful impacts could be mitigated and/or compensated. Accordingly, and based on precautionary principles, the proposals would be contrary to Policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1, Regulation 43 of Conservation of Habitats & Species Regulations 2017 and Government guidance at paragraphs 170, 175 and 180 within the National Planning Policy Framework’.*
- 2.5 TEP was appointed by Gladman Developments Ltd (the ‘Appellant’) to advise on Ecology matters on its development proposal at Land south of Tadmarton Road Bloxham, to include the production of an Ecological Impact Assessment (EclA) to accompany the planning application. A Biodiversity Net Gain Design Stage Report was produced separately by the Appellant.

- 2.6 A Preliminary Ecological Appraisal (PEA) was produced by TEP in May 2023 (TEP Report ref. 9731.02.003). The PEA report was informed by a Desk Study (TEP Report ref. 9731.02.001), extended Phase 1 habitat survey, great crested newt Habitat Suitability Index (HSI) Assessment, bat commuting and foraging habitat assessment and Ground Based Tree Assessment (GBTA) for bat roosting potential. At the time of submission of the PEA report, Great Crested Newt (GCN) Environmental DNA (eDNA) surveys had been undertaken, although the results had not been received.
- 2.7 The PEA report recommended additional bat activity surveys, breeding bird surveys, otter and water vole surveys, and white-clawed crayfish surveys. An outline planning application was submitted on 10<sup>th</sup> May 2023 (application ref. 23/01265/OUT). Due to seasonal survey restrictions the additional surveys recommended within the PEA report could not be completed prior to submission of the outline planning application, or within the determination period.
- 2.8 The PEA report was submitted in support of the outline planning application but did not contain sufficient ecological information to allow an assessment of the ecological impacts of the proposals. The additional surveys recommended have now been completed and the PEA has been updated to a full EclA.
- 2.9 This Statement focuses on the Ecology matters contained within the above RfR, in particular the further ecological investigation required '*before it is known whether the proposed development would be harmful to biodiversity on site*'.

## 3.0 Ecological Assessment

- 3.1 The surveys recommended within the PEA report were undertaken during the period April to October 2023. The PEA report was updated to an EclA report (TEP Report ref. 9731.02.010). The EclA is included as Appendix A. Baseline results are summarised below.

### Designated Sites

#### Statutory Wildlife Sites

- 3.2 Full details regarding designated sites are provided within Appendix A.
- 3.3 There are no internationally designated wildlife sites or nationally designated wildlife sites within 10km and 5km of the site, respectively.
- 3.4 There is one locally designated wildlife site within 2km of the site. This is The Slade Local Nature Reserve (LNR) located approximately 30m south of the site. The LNR comprises a wet meadow, woodland and disused railway embankment.
- 3.5 SSSI Impact Risk Zones (IRZ) highlight the potential for effects on a SSSI if certain types of development are planned within a specified radius of it. The site falls within one IRZ for Bestmoor SSSI (approximately 8.8km south-east). The zone in which the site is situated identifies any discharge of water or liquid waste of more than 20m<sup>3</sup>/day to ground (i.e. to seep away) or to surface water, such as a beck or stream, as likely to impact upon the SSSI. This consideration has been assessed by Natural England as set out in Section 5.

#### Non-Statutory Wildlife Sites

- 3.6 There are five non-statutory wildlife sites identified within 2km of the site. These are:
- The Slade District Wildlife Site (DWS). The DWS is located approximately 30m to the south of the site.
  - Swere Valley & Upper Sour Conservation Target Area (CTA). The CTA is located approximately 600m to the south-west of the site.
  - Northern Valleys (CTA). The CTA is located approximately 800m to the east of the site.
  - Barford Marsh Local Wildlife Site (LWS). The LWS is located approximately 1.2km to the south of the site.
  - Tadmarton Orchid Field potential Local Wildlife Site (pLWS). The pLWS is located approximately 2km to the north-west of the site.

## Habitats and Flora

### Arable

- 3.7 The site is dominated by arable fields.
- 3.8 Fields F1 and F2 were found to be dominated by sown perennial rye-grass *Lolium perenne* at the time of survey. Fields F3 and F4 contained strips of planted maize crops which dominated the areas within the redline boundary. Beyond these strips both fields were dominated by sown perennial rye-grass.

### Bare Ground

- 3.9 A large area of largely unvegetated bare earth was present to the north of Field F3, with perennial rye-grass beginning to colonise. Bare ground within the site also formed tracks, along the northern boundary of Field F3 and linking Fields F2 and F3.

### Dense/Continuous and Scattered Scrub

- 3.10 A large strip of dense and scattered scrub interspersed with scattered young and semi-mature trees (TN5) was present in the centre of the site within the former quarry workings.
- 3.11 Scattered scrub comprising common ash, hawthorn, and dog rose *Rosa canina* was present at TN6. Scattered bramble scrub was also present near the site entrance on a bunded area at TN1.

### Standing Water

- 3.12 One pond was present within the site. P1 is located within the former quarry workings that bisect the site.

### Hedgerows

- 3.13 There were two hedgerows present within the site, forming the northern boundary of Field F1 (H1), and the western boundary of Field F4 (H2). Both hedgerows were formed of native species and considered to be habitat of principal importance under Section 41 (S41) of the 2006 Natural Environment and Rural Communities (NERC) Act.

### Scattered Trees

- 3.14 Scattered semi-mature trees (up to 7m in height) are present amongst the scrub at TN5 with species including Norway maple, alder species *Alnus sp.*, common hawthorn, ash, willow *Salix sp.*, pine *Pinus sp.*, and pedunculate oak *Quercus robur*.

- 3.15 A broken line of semi-mature common hawthorn trees / scrub is present between Field F3 and Field F4, up to 6m in height.
- 3.16 Other scattered trees on site include three semi-mature Norway maple trees within H1 ranging in height from 7m to 10m, and a semi-mature ash in the corner of Field F2 (TN 2) approximately 7m in height.

### Tall Ruderal

- 3.17 Areas of tall ruderal vegetation were found to be present within the site including on an earth bank at the eastern edge of Field F1 (TN 1), in the north-eastern and south-eastern corners of F2, and on the western edge of Field F2 (TN 3).

### Semi-natural Broad-leaved Woodland

- 3.18 A limited area of linear semi-natural broadleaved woodland (TN7) is present at the southern boundary of the site associated with the adjacent stream. This section of woodland is a continuation of off-site broadleaved woodland (S41) although is less mature.

### Wet Ditches

- 3.19 Two wet drainage ditches were identified within or directly adjacent to the site during the Phase 1 habitat survey.
- 3.20 Ditch D1 is associated with hedgerow H1, adjacent to Tadmarton Road, and is located outside but adjacent to the site boundary.
- 3.21 Ditch D2 is fed by an outflow pipe located within the former quarry workings surrounded by dense scrub and trees.

### Running Water

- 3.22 A short section of stream (Stream S1) (S41) is present abutting the southern boundary and flowing west to east.

### Notable or Invasive Flora

- 3.23 No notable or non-native invasive plant species were recorded on site and are therefore not considered further in this report.

## Fauna

### Amphibians

- 3.24 Full results of the GCN surveys are provided in TEP report ref. 9731.02.005 Protected Species Report – Amphibians (Appendix B). A summary of the results is provided below.
- 3.25 15 records of GCN (EPS, S41, WCA5) were returned within 2km of the site, the nearest of which was recorded approximately 200m south-east of the site. A review of Natural England’s open datasets for GCN class licence returns and pond survey data between 2017 and 2019 confirmed the presence of GCN within 2km of the site.
- 3.26 A review of Natural England’s MAGIC Map application and aerial imagery revealed the presence of two ponds on site and 11 ponds within a 500m radius of the site, which are not separated from the site by any barriers to amphibian dispersal (such as kerbed roads). One of the on-site ponds (Pond P2) had been filled in. The replacement of this pond will be addressed at the detailed design stage.
- 3.27 Habitat Suitability Index (HSI) and eDNA surveys were undertaken at the 13 ponds identified on site and within 500m of the site.
- 3.28 The eDNA surveys confirmed that no GCN are present within ponds on site or within 250m of the site boundary. Overall, three ponds (P5, P7 and P10) tested positive for GCN, located between 280m and 334m from the site.
- 3.29 The on-site pond (P1) was assessed as providing "good" habitat for breeding GCN during the HSI assessment; however, GCN were confirmed absent from P1 during the eDNA survey.
- 3.30 The site provides suitable terrestrial foraging and hibernation habitat in the form of hedgerows, broadleaved woodland, scattered and dense scrub, rock piles and exposed rock strata, tall ruderal vegetation and arable field margins. These habitats also provide connectivity to other ponds in the wider area.

### Badger

- 3.31 Results of the badger survey are confidential. Detailed results are provided within confidential report 9731.02.011 Protected Species Report – Badger (Appendix C). A summary of the results is provided below.

- 3.32 Six records of badger *Meles meles* were returned within 2km of the site. Due to confidentiality issues associated with badger records, no further detail was provided by TVERC.
- 3.33 A potential badger sett was identified on a steep earth bank located outside the site. Due to the steepness of the slope leading up to the mammal holes and the wet ground conditions at the time of survey, it was not possible to access the holes to undertake a detailed, close inspection. Approximately five holes were identified from ground level. The potential sett is located approximately 13m from the site boundary.
- 3.34 Snuffle holes were identified within the site on the southern edge of the arable field. A mammal path was also identified leading into an area of dense scrub within the south of the site. No other signs of badger were identified within the site, or within a 30m buffer from the site.
- 3.35 The dense scrub, earth banks, arable field margins, hedgerows and woodland provide sett creation opportunities for badger within the site. Woodland and hedgerows are also located off site but within 30m of the site boundary, which additionally provide sett creation opportunities for badger. The arable habitat which dominates the site provides sub-optimal habitat for sett creation.
- 3.36 The habitats mentioned above additionally provide suitable habitat for foraging and ranging badger within the site and within influencing distance of the site. The bare ground and hardstanding habitats within the site provide suboptimal habitat for badger.

## Bats

- 3.37 Full results of the bat activity surveys are provided in TEP report ref. 9731.02.008 Protected Species Report – Bat Activity Report (Appendix D). A summary of the results is provided below.
- 3.38 Fifty-two records of the following bat species were returned within 2km of the site:
- Bat species (EPS, WCA5, S41);
  - Brown long-eared bat (EPS, WCA5, S41);
  - Common pipistrelle (EPS, WCA5);
  - Myotis bat species (EPS, WCA5, S41);
  - Noctule bat (EPS, WCA5, S41);
  - Nyctalus bat species (EPS, WCA5, S41);
  - Pipistrelle bat species (EPS, WCA5); and



- Soprano pipistrelle (EPS, WCA5, S41).

3.39 A review of Natural England’s open datasets for European Protected Species Mitigation (EPSM) licences returned four licences within 2km of the site. All licences expired prior to or during 2019 and related to the damage and destruction of a resting place for brown long-eared *Plecotus auritus*, common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus* and whiskered bat *Myotis mystacinus*.

### Ground-Based Tree Assessment (GBTA) Results

3.40 The woodland in the south of the site (G1) was assessed as having moderate to high suitability to support roosting bats and T3, T7 and G4 were assessed as having low bat roosting suitability.

### Commuting and Foraging Habitat Assessment

3.41 The hedgerows and associated wet ditches, dense scrub, scattered trees, pond, woodland and stream all provide suitable commuting and foraging habitat for bats within the site boundary. The hedgerows, woodland and stream are also well connected to further suitable habitat off site. The arable fields have low/negligible potential for commuting and foraging bats.

3.42 There were no sources of artificial lighting within the site at the time of survey, which would be likely to suppress bat activity. Overall, the site was assessed as having low suitability to support commuting and foraging bats.

### Bat Activity and Static Detector Survey Results

3.43 At least six bat species were confirmed as present within the site during the surveys, with calls by common pipistrelle overwhelmingly dominating the calls recorded. Low numbers of calls by soprano pipistrelle, Myotis species, noctule, brown long-eared bat and serotine were also recorded. The site was assessed as supporting a bat assemblage of no more than Local importance.

3.44 Results indicate that the stream and woodland corridor in the south of the site supports significantly higher numbers of bats and a greater species diversity.

### Birds

3.45 Full results of the breeding bird surveys are provided in document 9731.02.007 Protected Species Report – Breeding Bird Report (Appendix E). A summary of the results is provided below.



- 3.46 Numerous records for protected and notable bird species were returned within 2km of the site. An example of some notable species that will potentially utilise habitats on site include barn owl *Tyto alba* (WCA1), red kite *Milvus milvus* (WCA1), kingfisher *Alcedo atthis* (WCA1), grey partridge *Perdix perdix* (S41, BRd), yellowhammer *Emberiza citrinella* (S41, BRd), house sparrow *Passer domesticus* (S41, BRd) and marsh tit *Poecile palustris* (S41, BRd).
- 3.47 The scrub, hedgerows, scattered trees and woodland have the potential to support a range of breeding birds including farmland specialists and passerines. The woodland to the south of the site may support raptors and the stream may support commuting and foraging kingfisher. These habitats also provide suitable foraging and commuting habitat for a wide range of bird species.
- 3.48 The arable fields are considered to have only low potential to support ground nesting birds, including skylark *Alauda arvensis*, lapwing *Vanellus vanellus* and meadow pipit *Anthus pratensis*. This is due to the small size of the fields on site (< 5 ha), presence of boundary features including tall hedgerows and woodland, and that the majority of the fields within the site are intensively managed and therefore not optimal for ground nesting birds.

### Breeding Bird Survey Results

- 3.49 37 bird species were recorded within the site boundary and 100m survey buffer during the 2023 breeding bird survey; 23 species were recorded within the site itself.
- 3.50 No species were confirmed to be breeding within the site during the 2023 surveys. Four species were confirmed to be breeding within the 100m buffer. Of these four species, house sparrow (1 colony) was the only notable species recorded. Ten species were probable breeding species within the site and 100m buffer with four species being probable breeding species within the site itself. There were also 19 species recorded as possible breeders within the site and 100m buffer. Results indicate that the site and buffer are of Local significance for breeding birds.
- 3.51 No ground nesting birds, including skylark, lapwing or meadow pipit were recorded during the 2023 surveys.

### Wintering Birds

- 3.52 The desk study returned minimal records for waterfowl or waders although lapwing *Vanellus vanellus* (S41, BRd) was recorded within 2km of the site.

- 3.53 The site supports habitats suitable to support wintering skylark *Alauda arvensis* (S41, BRd), yellowhammer, finch *Fringillidae* and bunting *Emberizidae* flocks, and other notable passerine species during the winter.
- 3.54 Given that the site is not located within proximity to any internationally or nationally designated sites for wintering birds, the nearest Special Protection Area (SPA) is more than 30km from the site, and that the desk study returned minimal records for waders and waterfowl, it is considered highly unlikely that wintering birds would represent a significant constraint to development.

### Hazel Dormouse

- 3.55 No records of hazel dormouse *Muscardinus avellanarius* (EPS, WCA5, S41) were returned within 2km of the site. A review of Natural England's open datasets for European Protected Species Mitigation (EPSM) licences revealed no dormouse mitigation licences within 2km of the site.
- 3.56 The hedgerows, dense scrub, and woodland within the site provide suitable habitat for hazel dormouse. However, given that known dormouse populations in Oxfordshire are isolated/sporadic, the lack of records for hazel dormouse, and the closest mitigation licence for dormouse is located approximately 30km south of the site, it is considered highly unlikely that dormouse would be present within the site.

### Invertebrates

- 3.57 No records of notable or protected invertebrates were returned within 2km of the site.
- 3.58 The hedgerows, scrub, woodland, and scattered trees provide potential opportunities for a range of invertebrate species. The site is however dominated by arable fields which provide suboptimal habitat for invertebrates. Given this, the limited extent of the site, and the lack of records, it is considered unlikely that the site would support an important assemblage of invertebrates.

### Reptiles

- 3.59 Four records of grass snake *Natrix helvetica* (S41, WCA5) and two records of slow-worm *Anguis fragilis* (S41, WCA5) were returned within 2km of the site, the nearest of which were located approximately 500m east and 400m east of the site, respectively.
- 3.60 The dense scrub, woodland, hedgerows, and arable field margin habitats within the site are suitable to support commuting, foraging, and breeding common reptiles. The pond edges, wet ditches, and stream may be of value to grass snake if present within the site.

A rock pile at TN4, exposed rock strata at TN6, and the earth bank at TN1 provide potential habitat for hibernating and sheltering common reptiles.

## Otter and Water Vole

- 3.61 Full results of the otter and water vole surveys are provided in document 9731.02.006 Protected Species Report – Otter and Water Vole (Appendix F). A summary of the results is provided below.
- 3.62 Two records of otter *Lutra lutra* (EPS, S41, WCA5) were returned within 2km of the site, the nearest of which is located approximately 200m south-east of the site. No records of water vole *Arvicola amphibius* (S41, WCA5) were returned within 2km of the site.
- 3.63 Evidence of otter, in the form of a footprint, was recorded along the stream to the south-east of the site, indicating that otter utilise the stream, likely for foraging and commuting. No evidence of otter was found at ditches D1 or D2. No otter holts, resting places, or couches were identified along any watercourse or amongst suitable habitat including woodland or trees within 30m of a watercourse.
- 3.64 The stream in the south of the site provides suitable habitat for commuting, foraging, and resting otter. The woodland associated with the stream and extending into The Slade LNR and DWS off site may additionally provide suitable habitat for breeding otter.
- 3.65 The stream to the south of the site and wet ditches within the site could provide suitable habitat for breeding, foraging, and commuting water vole. However, no evidence of water vole was recorded within any watercourse during the surveys.

## White-clawed Crayfish

- 3.66 Full results of the white-clawed crayfish surveys are provided in document 9731.02.009 Protected Species Report – White-clawed crayfish (Appendix G). A summary of the results is provided below.
- 3.67 The desk study did not provide any records for white-clawed crayfish *Austropotamobius pallipes* (EPS, S41, WCA5) within 2km of the site.
- 3.68 The stream to the south of the site was assessed as providing suitable habitat for foraging and breeding white-clawed crayfish. Ditches D1 and D2 were assessed as being unsuitable for the species.
- 3.69 No evidence of white-clawed crayfish was recorded during the survey and eDNA results confirmed white-clawed crayfish to be absent from the stream. However, signal crayfish *Pacifastacus leniusculus* (WCA9) were sighted in the stream.

## Other Relevant Species

- 3.70 31 records of European hedgehog *Erinaceus europeaus* (S41) were returned within 2km of the site, the nearest of which is located approximately 200m east of the site. The hedgerows, woodland edge, and dense scrub habitats within the site are suitable to support foraging, commuting, and hibernating hedgehog. The field margins also provide potential commuting and foraging habitat.
- 3.71 Two records of polecat *Mustela putorius* (S41) were returned within 2km of the site, the closest record being located approximately 1.2km south-east of the site. The woodland and hedgerow habitats within the site are suitable to support polecat.
- 3.72 The mosaic of habitats on site, including arable fields, woodland and hedgerow, also provide potential to support brown hare *Lepus europaeus* (S41). No records of brown hare were returned within 2km of the site.

## 4.0 Assessment of Potential Impacts

### Designated Sites

#### Statutory Wildlife Sites

- 4.1 There are no internationally designated wildlife sites located within 10km of the site boundary. Consequently, and given the scale of the proposed development, there will be no direct or indirect impact on any internationally designated statutory wildlife sites as a result of development of the site.
- 4.2 There are no nationally designated wildlife sites located within 5km of the site boundary. Given this, and the scale of the proposed development there will be no direct impacts on any nationally designated wildlife sites as a result of development.
- 4.3 However, in the absence of mitigation the proposed discharge into the stream in the south of the site may result in indirect impacts on nationally designated statutory wildlife sites at a greater distance than 5km, based on the distance of flow along the watercourse and the catchment areas it may impact, and given the predicted outflow from the development.
- 4.4 In order to address potential indirect impacts during the construction stage, standard pollution prevention and dust control measures will be set out in a Construction Environmental Management Plan (CEMP), to be secured by an appropriately worded condition, and implemented during site clearance and construction works. The CEMP will identify measures to ensure the potential for indirect impacts on nearby statutory and non-statutory designated sites are reduced to a minimum.
- 4.5 Post-development a SUDs drainage system will connect to the stream through an existing connection. As a result, the discharge will be controlled and there will be no significant impact on the stream and connected wildlife sites.
- 4.6 Natural England was consulted during the determination period and considers that the proposed development will not have significant adverse impacts on designated sites, including the Bestmoor SSSI, and therefore has no objection to the appeal proposals (CD4.9).
- 4.7 There is one locally designated wildlife site located within 2km of the site boundary. This is The Slade LNR located 30m to the south of the site which is hydrologically linked to the site by the stream in the south. The mitigation measures outlined above identify measures to ensure the potential for indirect impacts on the LNR are reduced to a minimum.

## Non-statutory Designated Sites

- 4.8 Five non-statutory wildlife sites of local importance were identified within 2km of the site. No direct impacts on any non-statutory designated wildlife sites are anticipated due to separation distance.
- 4.9 The mitigation measures outlined above identify measures to ensure the potential for indirect impacts on the Slade DWS and Northern Valleys CTA are reduced to a minimum. Due to distance, lack of hydrological connection, and the small scale of the proposed development, no indirect impacts are anticipated on the remaining three non-statutory designated wildlife sites.

## Habitats and Flora

### Habitats

- 4.10 The semi-natural broad-leaved woodland is of high ecological value in the context of the site, offering potential habitat for a range of protected and notable species. The woodland is also a continuation of an area off-site woodland which is a S41 habitat. The woodland will be retained and protected, although there may be a minor direct impact as a result of installation of a drainage connection into the stream. Any such impact would be temporary in nature and is not considered to be significant.
- 4.11 The hedgerows within the site qualify as S41 habitat and are of high ecological value in the context of the site. Hedgerows form ecological linkages and corridors within the landscape and are important at a local level. Hedgerows within the site provide potential habitat for a range of protected and notable species, and habitat connectivity to the wider area. An existing access point will be utilised to the north of the site and as a result, hedgerow H1 and hedgerow H2 will be retained and protected. Additionally, a native species-rich hedgerow will be planted along the western boundary to define the development edge resulting in an overall net gain for hedgerow within the site. The BNG Assessment report (CD1.19) indicates a 3.38 BU gain for linear features (hedgerows) under the proposals, equating to a net gain of 127.93%.
- 4.12 The standing water within the site is of high ecological value in the context of the site, offering potential habitat for a range of protected and notable species, including amphibians. GCN were confirmed absent from the pond, however, the pond may support common amphibian species, including common toad *Bufo bufo* (S41 species). If the pond supports common toad, it would also qualify as a S41 habitat. However, survey has not been undertaken to confirm common toad presence. Pond P1 will be retained and enhanced under the proposals through removing adjacent agricultural pressures

alongside suitable planting and scrub thinning. As detailed in Sections 3 and 4, the Appellant is committed to the replacement of Pond 2 within the proposed development. It is proposed that this will be addressed at the detailed design stage.

- 4.13 The scrub within the site is of ecological value, creating structural diversity and providing potential habitat for a range of protected and notable species, and qualifies as a Local Biodiversity Action Plan (LBAP) habitat within Oxfordshire. Scrub will largely be retained and enhanced through selective thinning of non-native species and planting of native species, as well as thinning / creating clearing and improving the edge habitat. Small areas that may be lost to accommodate drainage will be left to recolonise upon completion. Any temporary scrub loss is not considered to represent a significant impact.
- 4.14 Scattered trees have an intrinsic ecological value offering potential habitat for a range of protected and notable species. All trees are semi-mature and category B or C, as detailed within the TEP Arboricultural Impact Assessment (TEP Ref: 9731.01.001) (CD1.10). Proposals show only three trees (identified as T7, T8, and T9 within the Arboricultural Impact Assessment) will require removal to facilitate the proposed footway connection at the site access.
- 4.15 The stream to the south of the site is of ecological value offering potential habitat for a range of protected and notable species. The stream was identified to support foraging and commuting otter (EPS, WCA5, S41), and is therefore a S41 habitat. Watercourses form ecological linkages and corridors within the landscape and are important at a local level. This habitat will be retained and protected under the proposals. Minor direct impacts to this habitat will occur through drainage outflow from the site into the stream, but through the implementation of the measures set out within the CEMP and SUDs strategy, this minor impact is not considered to be significant.
- 4.16 The wet ditches within the site were considered to be of ecological value, offering potential habitat for a range of protected and notable species. The wet ditches will be retained and protected under the proposals.
- 4.17 The arable, bare ground, hard standing, and tall ruderal habitats are of low intrinsic ecological value providing limited function for protected and notable species. Arable and bare ground habitats will be lost to development. However, the loss of these habitats will not have a significant negative impact on the ecological value of the site, when considered alongside the habitat enhancement measures on site. Proposed habitat creation measures in the site, including hedgerow and tree belt planting, which will enhance the connectivity both within the site and into the wider area.
- 4.18 In the absence of mitigation, indirect impacts on retained habitats may include loss, disturbance and damage through dust deposition and pollution run-off during



construction, and impacts caused by increased lighting and recreational pressure may occur after occupation.

- 4.19 It is recommended that an ecological Precautionary Working Method Statement (PWMS) for the protection of habitats and species be drafted to inform ecological input into the contractors CEMP. If applicable, the PWMS will identify any further measures to ensure that impacts on priority habitats (HPI) are reduced to a reasonable minimum such that the qualifying features of such designations are not negatively affected by the proposed development.

## Fauna

### Amphibians

- 4.20 GCN were confirmed to be absent from the pond within the site (P1), although the pond may support breeding common amphibians, including common toad.
- 4.21 GCN were found to be present in three ponds (P5, P7 and P10) during the eDNA surveys, all located between 250m and 500m from the site and not separated from the site by any definitive barriers to amphibian dispersal. Wet ditches within the site may also provide aquatic habitat for common amphibian species.
- 4.22 Given that potential suitable terrestrial habitat for amphibians is present within the site, including woodland, scrub, and hedgerows as well as aquatic habitat, it is considered possible that amphibians may be present on site. Individual amphibians could therefore be harmed during site clearance and construction works. However, given that the nearest pond confirmed to support GCN is 280m from the site, the risk of GCN being present is considered to be low.
- 4.23 The rapid risk assessment tool provided by Natural England as part of the mitigation licence method statement document was used to give an indication of the likely risk of an offence as a result of the development proposals. The risk assessment tool confirmed that an offence is unlikely, with the results provided in Figure 1.



Figure 1 Natural England Rapid Risk Assessment Results

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	No effect	0
Land >250m from any breeding pond(s)	1 - 5 ha lost or damaged	0.04
Individual great crested newts	No effect	0
	Maximum:	0.04
<b>Rapid risk assessment result:</b>	<b>GREEN: OFFENCE HIGHLY UNLIKELY</b>	

- 4.24 Works over 250m from a GCN breeding pond are not considered licensable. Works between 250m and 500m of a GCN breeding pond, which are not separated by a significant barrier to amphibian dispersal, should be conducted under a Precautionary Working Measures Method Statement (PWMS) due to the low risk of an offence being committed.
- 4.25 It is proposed that any clearance of suitable habitat for GCN on site will therefore be done under a PWMS. The PWMS will minimise the risk of harm and injury to GCN and other common amphibians, including common toad (SPI), if present on site, under the works. If GCN are found on site during site clearance under the PWMS, works will stop and a licence will be applied for. In this case, it will be possible to register the site under the Nature Space GCN District Level Licencing (DLL) Scheme if required. Works could only continue once a licence is in place.

### Badger

- 4.26 The potential badger sett is located within a steep bank outside the site boundary. Taking the topography of the bank into account, it is considered highly likely that any tunnels present either run directly into the bank or parallel with the bank face, rather than extend towards the site boundary.
- 4.27 Proposed works within a 30m buffer of the potential sett comprise predominantly soft landscaping, with limited construction works. The proposals will not directly impact the potential sett, with proposed works within the 30m buffer considered to be non-licensable.
- 4.28 A pre-construction badger survey of all land within the site and the 30m buffer will be conducted a maximum of 3 months prior to the commencement of works and updated at the start of each new phase of development. If a sett is confirmed which may be impacted by the proposals, monitoring of the sett will be undertaken to confirm activity levels. If it is not possible for an appropriate buffer zone to be either implemented or maintained around

an active badger sett during future works, the requirement for a licence from Natural England will be reviewed.

- 4.29 Standard precautionary working measures will need to be implemented to ensure no harm or disturbance to foraging or ranging badger as a result of the development.
- 4.30 Badgers are known to forage within the site. The proposals would result in a loss of suitable badger foraging habitat across the site. However, the most suitable badger habitat within the site shall be retained e.g. dense scrub. Furthermore, current proposals include areas of soft landscaping which would likely provide badger with suitable foraging opportunities.

## Bats

- 4.31 Current proposals indicate that one tree (T7) identified as having low suitability to support roosting bats will require removal to facilitate the proposed pedestrian access to the site. It is recommended that this tree is subject to a pre-works check by a suitably licensed bat ecologist immediately prior to felling and is soft felled under supervision.
- 4.32 Fitting additional integral or built-in bat roosting bricks into the south and east facing edges of new buildings and retained semi-mature trees will increase bat roosting provision within the site and provide long-lasting opportunities for roosting bats that require minimal maintenance. Models suitable for local species include the Schwegler 1FR Bat Tube and the Schwegler 2F General Purpose Bat Box. These details will be integrated into the elevation drawings to ensure that the bat boxes are installed in/on the right buildings.
- 4.33 The site was assessed as having low suitability to support commuting and foraging bats. Hedgerows, wet ditches, woodland, scrub, and pond habitats within the site are suitable to support commuting and foraging bats, although are limited in extent. Proposals indicate that these habitats will be retained. The woodland and stream which offer moderate suitability to support commuting and foraging bats will be retained and buffered from development. The proposed planting of an additional hedgerow, trees, and scrub will result in an overall gain in commuting and foraging habitat for bats within the site.
- 4.34 In the absence of mitigation, there will be indirect impacts on retained bat roosting, commuting, and foraging habitat, within and adjacent to the site, caused by increased light spill from development. It is proposed that impacts from lighting are addressed through a Sensitive Lighting Strategy to be secured through an appropriately worded condition.

- 4.35 The measures outlined above would be detailed within the PWMS which could be conditioned and form part of the recommended CEMP.

## Birds

- 4.36 There is a risk of damaging or destroying a nest if vegetation clearance (including tree pruning) is carried out in the nesting period (generally considered to be March to August inclusive, although geographical position of the site will influence this period and some species also commonly nest outside this period).
- 4.37 There is potential for impacts on red kite *Milvus milvus* (WCA1) if construction works at the southern end of the site are undertaken during the red kite breeding season (March to August). There is also potential for impacts on barn owl *Tyto alba* (WCA1) if they are found to be nesting on site, or within the vicinity of the site, during site clearance and construction works.
- 4.38 Any planned vegetation clearance should be undertaken outside of the bird breeding season (March to August inclusive), to avoid damage to nesting birds. All works undertaken during the breeding season, or when nesting is suspected/likely, will require a nesting bird check to be carried out by a suitably qualified ecologist immediately prior to any clearance works commencing. If evidence of nesting is observed, a buffer zone will be set up around the nest, the size of which will be dependent upon the species nesting. An ecologist will monitor the nest to confirm when any young have fledged, following which vegetation clearance works can proceed.
- 4.39 Prior to any construction works commencing at the southern end of the site during the red kite breeding season (March to August), a red kite nesting survey should be carried out. This should include checking the woodland for any signs of nesting red kite within at least 300m of the development. Should any nesting red kite be found, measures will need to be implemented to prevent disturbance to this species from the development while they are nesting.
- 4.40 Before the removal of any mature tree or any other tree containing cavities, a thorough check should be carried out by a suitably qualified ecologist to determine if any nesting barn owl are present. If barn owl are found to be nesting, a suitable disturbance buffer will need to be established around the nest until nesting is confirmed to have ended. Barn owls may nest at any time of year, so this mitigation applies all year round.
- 4.41 The proposed hedgerow, and tree planting will result in an increase in suitable habitat for foraging and breeding birds within the site. In addition, bird boxes should be installed on trees and buildings to help encourage nesting birds.

- 4.42 The measures outlined above would be detailed within the PWMS which could be conditioned to the application and form part of the recommended CEMP.

## Reptiles

- 4.43 The woodland, hedgerows, pond, stream, wet ditches, earth banks, and scrub habitats as well as features at TN1, TN4 and TN6 were considered suitable for basking, foraging, ranging, and hibernating common reptiles within the site. There is potential for individuals to be harmed during site clearance and construction in the absence of mitigation.
- 4.44 Proposed enhancements will result in an increase of suitable habitat for reptiles within the site, such as hedgerow planting which will enhance connectivity.
- 4.45 Works will be carried out under a PWMS which will ensure that common reptiles are not harmed, if present within the site.

## Otter and Water Vole

- 4.46 The stream, pond and wet ditches are considered suitable to support otter and water vole.
- 4.47 No evidence of water vole was found during surveys. There will therefore be no impacts on this species.
- 4.48 As no otter holts, couches or resting places were found during the surveys, there are no implications to the development proposals in relation to otter. However, an otter footprint was identified at the stream, indicating that otter do utilise the stream, likely for commuting and foraging purposes. As otter are known to be present within the area, a pre-construction check of all watercourses on site for otter will be undertaken prior to the commencement of development works. The survey will re-affirm the absence of holts within influencing distance of the works.
- 4.49 Given that water voles are dynamic species and that the ditches and stream provide suitable habitat, it is recommended that a repeat of the survey should be undertaken prior to the commencement of works.
- 4.50 Standard pollution prevention measures set out within the CEMP will ensure any impacts on the stream are mitigated for.

## Other Notable Species

- 4.51 The site has potential to support hedgehog (S41), polecat (S41) and brown hare (S41). There is potential for harm to these species during site clearance and construction works in the absence of mitigation. However, given that additional extensive areas of suitable

habitats for these species are present within the wider area, minor loss of suitable habitat within the site is unlikely to have a significant impact on local populations.

- 4.52 Precautionary working measures set out in the PWMS for herptiles (amphibians and reptiles) will also prevent harm to brown hare, polecat and hedgehog.
- 4.53 Gaps should be left under fences to allow for easy movement of hedgehogs across the site. Hedgehog hibernation boxes should also be installed to provide shelter, nesting, and hibernation opportunities for hedgehog.

## 5.0 Responses Relating to Ecology

### Ecology Officer

- 5.1 Dr Charlotte Watkins, the Cherwell District Council Ecology Officer, provided a response (CD4.5) to the outline planning application dated 21st June 2023.
- 5.2 The Ecology Officer commented that *“results of ecological surveys are missing from the submissions” including “all survey data for commuting and foraging bats, breeding bird surveys, watervole and Otter and white clawed crayfish. It is important that this information is submitted prior to determination so we are able to assess whether mitigation or licensing is required for any of these species and whether it can be accommodated within the proposals and so we know whether there are priority or protected species on site which could be impacted by the proposals on or offsite that we need to consider in the decision. Until these survey results are submitted with full discussion of mitigation I would maintain a holding objection as I do not regard all ecological issues to have been addressed.”*
- 5.3 The results of all outstanding ecology surveys have been summarised within Section 3 and provided in full within the EclA and Technical Reports provided as Appendices A-G to this Hearing Statement. Section 4 of this hearing statement confirms that following implementation of recommended mitigation measures there will be no significant impacts on the ecological features associated with the site and the surrounding zone of influence. No licensing will be required for protected species. Appropriate mitigation and enhancement can be provided within the site.
- 5.4 The Ecology Officer further commented that *“The results of the Great Crested Newt eDNA surveys of the surrounding ponds are also not yet submitted. We either require these results or GCN presence should be assumed (there are records of GCN within 150m and there is suitable habitat on site). In order for us to assess whether GCN have been accounted for as per best practice and to be able to state that a licence is likely to be granted if required, the applicant needs to state whether they intend to pursue the District Licence route if the application reaches reserved matters or if they intend to carry out population surveys and pursue the traditional route. Ideally an idea of whether the site would be accepted onto the DL scheme would be given and details of what, if any mitigation may need to be accommodated on site.”*
- 5.5 Section 3 of this Hearing Statement confirms that the nearest pond confirmed to support GCN is 280m from the site. The risk of GCN being present within the site is considered to be low. Section 4 of this Hearing Statement confirmed that the rapid risk assessment tool provided by Natural England as part of the mitigation licence method statement



document was used to confirm that an offence is unlikely under the proposals. No licence will be required and it is proposed that any clearance of suitable habitat for GCN on site will therefore be done under a PWMS. If GCN are found on site during site clearance under the PWMS, a licence will be required. In this case, it will be possible to register the site under the Nature Space GCN District Level Licencing (DLL) Scheme.

- 5.6 The Ecology Officer commented that *“a biodiversity gain plan has been submitted (not the actual metric) which suggests that an overall net gain for biodiversity could be delivered on site at this preliminary stage. We do not know if mitigatory measures or additional habitat are required on site for other species so there remains some additional uncertainty on what can be achieved but overall the level of net gain is positive in terms of habitats.”*
- 5.7 It can be confirmed that no further mitigatory measures or additional habitat are required on site for other species, so the overall net gain for biodiversity identified (as detailed in CD1.19) can be delivered.
- 5.8 The Ecology Officer comments that *“BBOWT have raised concerns regarding hydrological and recreational impacts on the Local Nature Reserve and these – in particular hydrological impacts must be addressed.”*
- 5.9 Comments provided by BBOWT are addressed below.
- 5.10 The Ecology Officer provides a list of points that might need to be covered in conditions should permission be granted. The Appellant agrees that is appropriate for a full lighting strategy; LEMP to include a biodiversity enhancement plan, updated metric within a BIA and full habitat monitoring and management scheme; CEMP for biodiversity; pre-commencement badger update survey and mitigation scheme as required; and hydrological assessment and mitigation/monitoring plan, to be dealt with by way of appropriately worded conditions.
- 5.11 An EPS licence for great crested newts; farmland bird mitigation scheme; Otter and Water vole mitigation schemes; and further bat surveys of trees will not be required. These aspects can be dealt with through measures to be included within the LEMP and CEMP.

## Natural England

- 5.12 Natural England confirmed in their response (CD4.9) that *“based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.”*

## Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust (BBOWT)

- 5.13 Nicky Warden, the BBOWT Public Affairs and Planning Officer, provided a response (CD4.2) to the outline planning application dated 16th June 2023.
- 5.14 BBOWT commented that *“The Slade LNR/DWS contains habitats of principle importance wet woodland, lowland mixed deciduous woodland and lowland fen and numerous protected and notable fauna...Given that the LNR/DWS contains habitat types that are vulnerable to changes in hydrology, both water quality and water quantity (both temporal and in total), we are concerned about any potential negative impact as a result of changes in hydrology. In addition to the acknowledged risk of hydrological impact on the LNR/DWS there is also a risk of direct impact on the habitats of principle importance within the LNR/DSW as a result of increased recreational pressure.”*
- 5.15 Section 4 of this Hearing Statement confirms that potential indirect impacts during the construction stage and post development will be addressed through measures set out within a CEMP and SUDs drainage strategy respectively. As confirmed above in response to the Ecology Officer comments, the Appellant agrees that a hydrological assessment and mitigation/monitoring plan can be dealt with by way of an appropriately worded condition.
- 5.16 No direct access is proposed to the LNR from the site. No significant impacts as a result of increased recreational pressure are anticipated.
- 5.17 BBOWT highlighted the importance of avoiding impact on UK priority species including breeding birds. They further commented they *“therefore consider it extremely important that appropriate bird surveys are undertaken. The results of surveys should be made available...Depending on the outcome of appropriate surveys the applicant will also need to provide sufficient evidence that it will “provide habitat that allows bird populations to maintain their numbers in the areas where they naturally live.”*
- 5.18 Annex B-G provide full results of the surveys completed for protected and notable species, including breeding birds. Section 4 of this Hearing Statement confirms that subject to the implementation of certain precautionary working measures and mitigation, no significant impacts on UK priority species are anticipated. With relation to breeding birds, the proposed hedgerow and tree planting will result in an increase in suitable habitat for foraging and breeding birds within the site. In addition, bird boxes are recommended for installation on trees and buildings to help encourage nesting birds.
- 5.19 BBOWT commented that *“the Northern Valleys CTA is only 0.8km east of the site...It is possible that the development might prevent the aims of the CTA being achieved due to the risk of water pollution and we also consider that a great deal more information should*



*be provided to illustrate how the development will “secure biodiversity enhancement to help achieve the aims of the Conservation Target Area.”*

- 5.20 Potential hydrological impacts have been addressed above in relation to the Slade LNR/DWS. A Biodiversity Net Gain Design Stage Report was produced separately by the Appellant (CD1.19). The development is expected to achieve a net gain of 3.86 Biodiversity Units (BU), equating to a 37.33% net gain for area-based habitats, and a net gain of 3.38 BU, equating to a 127.93% net gain for linear-based (hedgerow) habitats, through on-site measures.
- 5.21 BBOWT commented on *“the importance of a net gain in biodiversity being in perpetuity.”* Furthermore that *“it is important that retained or newly created hedgerows are carefully managed in order to achieve the necessary biodiversity net gain.”*
- 5.22 The Appellant will comply with all necessary planning requirements to deliver a net gain legacy, in line with the Biodiversity Net Gain good practice principles for development<sup>1</sup>. As confirmed above in response to the Ecology Officer comments, the Appellant agrees that a LEMP to include a biodiversity enhancement plan, updated metric within a BIA and full habitat monitoring and management scheme can be dealt with by way of an appropriately worded condition.

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<sup>1</sup> Biodiversity Net Gain: Good practice principles for development © CIEEM, CIRIA, IEMA, 2016.

## 6.0 Planning Policy Compliance

### National and Local Planning Policy

- 6.1 The National Planning Policy Framework (the Framework) was last updated on 20th December 2023<sup>2</sup>. The Framework Chapter 15: Conserving and Enhancing the Natural Environment (paragraphs 180 - 188) identifies the importance the Government places on development enhancing the natural environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. It recognises the wider benefits of ecosystems beyond their inherent value to wildlife. The Framework emphasises the principle that new development should minimise impacts and provide net gains for biodiversity, particularly by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.2 The Appeal proposals comply with the Framework Chapter 15 by avoiding significant impacts on ecological features within and surrounding the site, providing a significant net gain in biodiversity through on-site measures and retaining and enhancing features that provide habitat connectivity to the wider landscape, including the stream to the south of the site and wet ditches and hedgerows within the site.
- 6.3 The Adopted Cherwell Local Plan 2011-2031 (Part 1)<sup>3</sup> contains strategic planning policies for development and the use of land. It forms part of the statutory Development Plan for Cherwell to which regard must be given in the determination of planning applications. Policy ESD 10 – Protection and Enhancement of Biodiversity and the Natural Environment requires provision of results of relevant surveys for habitats and species, delivering a net gain in biodiversity, protecting trees, and avoiding damage to and loss of statutory and non-statutory designated sites.
- 6.4 The Appeal proposals comply with Policy ESD 10 by providing the results of a suite of surveys for protected and notable species (Appendices B to G), delivering a significant net gain in biodiversity through on-site measures, retaining and enhancing features including hedgerows, the pond and trees, and avoiding damage to and loss of nearby designated sites, notably the Bestmoor SSSI and the Slade LNR and DWS.
- 6.5 Policy ESD 15 - The Character of the Built and Historic Environment, requires developments to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation; and to integrate and enhance

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<sup>2</sup> National Planning Policy Framework <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>3</sup> <https://www.cherwell.gov.uk/info/83/local-plans/376/adopted-cherwell-local-plan-2011-2031-part-1>

green infrastructure and incorporate biodiversity enhancement features where possible (see Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment and Policy ESD 17 Green Infrastructure). Well-designed landscape schemes should be an integral part of development proposals to support improvements to biodiversity.

- 6.6 The Appeal proposals comply with Policy ESD 15 by providing a significant net gain in biodiversity through on-site measures and retaining and enhancing features including trees, and avoiding damage to and loss of nearby designated sites, notably the Bestmoor SSSI and the Slade LNR and DWS. As detailed in the response to the Ecology Officer comments in section 5, the Appellant agrees that is appropriate for a full lighting strategy to be dealt with by way of an appropriately worded condition.
- 6.7 Policy Villages 2: Distributing Growth across the Rural Areas states, inter alia, that when identifying and considering sites, particular regard will be given to whether the land has been previously developed land or is of lesser environmental value; and whether significant adverse impact on heritage or wildlife assets could be avoided.
- 6.8 The Appeal proposals comply with Policy Villages 2 as the arable, bare ground, hard standing, and tall ruderal habitats that dominate the site are of low intrinsic ecological value providing limited function for protected and notable species. The loss of these habitats will not have a significant negative impact on the ecological value of the site. No significant negative impacts are anticipated on important ecological features.

## 7.0 Conclusion

- 7.1 The planning application (LPA Ref 23/01265/OUT) was accompanied by a PEA prepared by appropriately qualified and experienced ecological professionals. Due to seasonal survey restrictions additional surveys recommended within the PEA report (bat activity surveys, breeding bird surveys, otter and water vole surveys, and white-clawed crayfish surveys) could not be completed prior to submission of the outline planning application, or within the determination period.
- 7.2 The application was considered by Committee on 10th August 2023 and was refused. The Reason for Refusal (RfR) of relevance to Ecology matters is:
- '4. Based on the advice from the Council's Ecologist, further ecological investigation needs to be carried out before it is known whether the proposed development would be harmful to biodiversity on site. The evidence currently available demonstrates likely detrimental impact to protected species and their habitat and without more detailed investigation the Local Planning Authority cannot be assured that the harmful impacts could be mitigated and/or compensated. Accordingly, and based on precautionary principles, the proposals would be contrary to Policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1, Regulation 43 of Conservation of Habitats & Species Regulations 2017 and Government guidance at paragraphs 170, 175 and 180 within the National Planning Policy Framework'.*
- 7.3 The main reason for refusal has now been addressed through provision of the results of the further ecological investigations within the updated EclA and Technical Reports provided as Annexes A-G of this Hearing Statement. The results of these surveys and an assessment of potential impacts have been summarised within Sections 3 and 4 of this hearing statement respectively.
- 7.4 Section 6 of this hearing statement confirms that the proposals are in compliance with paragraphs 180, 181 and 185 of the NPPF and Policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1.
- 7.5 Furthermore, Section 4 of this hearing statement confirms that following implementation of recommended mitigation measures there will be no significant impacts on the ecological features associated with the site and the surrounding zone of influence. No licensing will be required for protected species. Appropriate mitigation and enhancement can be provided within the site.
- 7.6 The Biodiversity Net Gain Design Stage Report produced by the Appellant (CD1.19) demonstrates that the proposals can deliver a net gain of 3.86 Biodiversity Units (BU),

equating to a 37.33% net gain for area-based habitats, and a net gain of 3.38 BU, equating to a 127.93% net gain for linear-based (hedgerow) habitats, through on-site measures.

- 7.7 Ecology related comments provided by the Ecology Officer, Natural England and Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust have been addressed in full within Section 5 of this hearing statement.
- 7.8 In conclusion, the proposals are in compliance with the relevant paragraphs of the NPPF and policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan. Subject to the implementation of recommended mitigation measures, the proposals will avoid significant negative impacts on important ecological features. The scheme will result in provision of a significant net gain in biodiversity through onsite measures. Finally, the Appellant is in agreement with the topics suggested by the Ecology Officer to be addressed via appropriately worded conditions. On this basis there is no reason to refuse the appeal on ecology grounds.

# Annex A: Ecological Impact Assessment – TEP Report

## Ref. 9731.02.010

# Annex B: Protected Species Report – Amphibians – TEP Report Ref. 9731.02.005



# Annex C: Protected Species Report – Badger – TEP

## Report Ref. 9731.02.011

# Annex D: Protected Species Report – Bat Activity Report – TEP Report Ref. 9731.02.008

# Annex E: Protected Species Report – Breeding Bird Report – TEP Report Ref. 9731.02.007

# Annex F: Protected Species Report – Otter and Water Vole Report – TEP Report Ref. 9731.02.006

# Annex G: Protected Species Report – White-clawed Crayfish Report – TEP Report Ref. 9731.02.009



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