



**Gavray Drive,
Bicester**

Proof of Evidence of:

Rob Rowlands

BSc (Hons), PhD,
MCIEEM, CEnv

In respect of:

Ecology Matters

On behalf of:

Gallagher Estates

**Volume IV
REBUTTAL**

June 2018

Report Ref:

edp124_r039

**PLANNING
INSPECTORATE**

REF:

APP/C3105/W/17/
3189611

Contents

Volume IV: Rebuttal

Section 1	Introduction	1
Section 2	Rebuttal with Respect to Evidence of Mr Dominic Woodfield	2
Section 3	Rebuttal with Respect to Mrs Patricia Clissold's Submission	4

Appendices

Appendix RR25 Correspondence with David Lowe

This version is intended for electronic viewing only

For EDP use

Report no.	edp124_r039
Author	Rob Rowlands
Formatted	Michelle Jones
Proofed	Rebecca Coope
Proof Date	12 June 2018

Section 1

Introduction

- 1.1 I have prepared this rebuttal proof to address certain ecological matters raised within the evidence listed below submitted in relation to the Appeal against the refusal of Outline Planning Consent by Cherwell District Council (CDC) for a proposed residential development to the north of Gavray Drive, Bicester, Oxfordshire (hereafter known as “the Appeal Site”):
- (i) Proof of Evidence of Dominic Woodfield; and
 - (ii) Submissions made by Patricia Clissold of Save Gavray Meadows with respect to the Addendum Environmental Statement (ES).
- 1.2 To avoid unnecessary repetition and where applicable, I cross reference to my main evidence set out in documents Dr Rob Rowlands, Proof of Evidence Volume I (edp124_r035; hereafter referred to as “main evidence”) and Dr Rob Rowlands, Proof of Evidence Volume II (edp124_r036; hereafter referred to as “appendices”) and where necessary expand on the evidence set out in these documents.
- 1.3 In **Section 2** of my rebuttal evidence, I address the certain ecological matters raised by Dominic Woodfield; while in **Section 3** I address the matters raised in submissions made by Patricia Clissold.

Section 2

Rebuttal with Respect to Evidence of Mr Dominic Woodfield

- 2.1 Mr Woodfield at Appendix 6 of his evidence includes correspondence between himself and CDC; including Mr Matthew Parry (CDC Planning Officer) and Mr David Lowe (CDC Ecology Officer (seconded from Warwickshire County Council to cover maternity leave).
- 2.2 In preparing my rebuttal evidence, I note that none of the correspondence included in Appendix 6 of Mr Woodfield's evidence is included on CDC's planning file for this Appeal¹ and effectively has only been made public through his evidence.
- 2.3 In light of matters raised by this correspondence and to avoid ambiguity, particularly regarding Mr Lowe's advice to CDC and this Appeal on certain matters, I sought clarification from Mr Lowe regarding the following:
- (i) Whether the Appeal Site will result in any significant harm to the ecological interests of land adjacent to the Appeal Site at Gavray Drive East (including Gavray Drive Meadows Local Wildlife Site) arising from increased recreational use of the latter;
 - (ii) Mindful that the BIA I completed for the Appeal Site was prepared in consultation with Mr Lowe, why did he not consider it necessary for the BIA to account for indirect effects;
 - (iii) Clarification regarding Ecological Management Plan(s) (EMP); and
 - (iv) Confirmation that the position adopted by the planning officer at paras. 7.37 to 7.39 of the Committee Report (**Appendix RR16**) was in accordance with the advice which he provided to the Council on ecology matters.
- 2.4 I include my correspondence with Mr Lowe (including his response) on these points of clarification as **Appendix RR25** of my Rebuttal Evidence. Based on this correspondence I note the following crucial points:

¹ I checked CDC's Online Planning Application Files on 08 June 2018

- (i) Mr Lowe considers that the Appeal Site will contribute to an increase recreational pressure within Gavray Drive East; however considers that this increase is “...less than significant”. This accords with my evidence to this Appeal;
- (ii) With reference to the BIAs which I prepared in consultation with Mr Lowe, he has confirmed that there was no requirement to account for the indirect impact associated with recreational pressure within Gavray Drive Meadows Local Wildlife Site within these BIAs since he considered the impacts to be insignificant and to account for them would “...not be reasonable in both ecological or planning terms”; and
- (iii) Mr Lowe confirms that the position adopted by the Planning Officer at paras. 7.37 – 7.39 of the Committee Report (**Appendix RR16**) is in accordance with his advice to Council; including the recommendation that an Ecological Management Plan (EMP) was not required to be delivered by the Appeal Site for Gavray Drive East (including the Local Wildlife Site).

Section 3

Rebuttal with Respect to Mrs Patricia Clissold's Submission

3.1 The following relates to a submission made to this Appeal by Patricia Clissold on behalf of Save Gavray Meadows dated 18 May 2018 responding to the Addendum Environmental Statement (ES) submitted by the Appellant to inform this Appeal. I provide a point-by-point rebuttal in respect of the ecology matters raised by Ms Clissold:

- (i) Save Gavray Meadows Point 1. As documented at **Appendix RR2** of my evidence, Natural England (the Government's statutory agency with responsibility for protecting and conserving statutory designations) has confirmed that, with respect to both Wendlebury Meads and Mansmoor Closes SSSI and Otmoor SSSI, "*...it is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified*". It is considered that, in light of Natural England's statutory duties with respect to SSSIs, significant weight is attached to its response on this matter.
- (ii) Save Gavray Meadows Point 3. As referenced in **Appendix RR6** of my evidence, the River Ray Conservation Target Area (CTA) has an independent target to create 5 hectares of Lowland Meadow. I understand that this target is for the whole CTA. The Appeal Proposals do not propose to deliver this target in full; rather to contribute to achieving this target through the grassland habitat to be created by the proposed development.
- (iii) Save Gavray Meadows Point 7. I address recreational impacts at para. 6.17 of my evidence and this is further supplemented by the rebuttal evidence I include at **Section 2** of this document.
- (iv) Save Gavray Meadows Point 8. A LEAMP will be prepared for the Appeal Site; as documented in para. 3.24(iv) of my evidence. Further clarification is also provided in **Section 2** of my Rebuttal.

Appendix RR25
Correspondence with David Lowe

Rebecca Coope

From: David Lowe <davidlowe@warwickshire.gov.uk>
Sent: 11 June 2018 16:05
To: Rob Rowlands
Cc: Matthew Parry
Subject: Re: Gavray Drive, Bicester (PINS Ref: APP/C3105/W/17/3189611)

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Rob

I am happy to provide clarity on the following points.

1. *Do you consider that the proposed development at the Appeal Site will result in any significant harm to the ecological interests of land adjacent to the Appeal Site at Gavray Drive East (including the Gavray Drive Meadows Local Wildlife Site) arising from increased recreational use of the latter?*

I believe that it is understood that there will be an increase in human disturbance from the Appeal Site including associated disturbance (e.g. cats and dogs). However, due to the large number of houses to the south and the current extensive recreational pressures on the Local Wildlife Site I considered this increase as less than significant.

2. *In relation to the Biodiversity Impact Assessments prepared in consultation with you during 2017, please could you confirm why you did not consider it necessary for the BIA prepared for the Appeal Site (Gavray Drive West; GDW) to account for indirect effects?*

There were two Biodiversity Impact Assessment (BIA) prepared; one for the Appeal Site illustrating a gain of 2.9 biodiversity units and one for the eastern site illustrating a gain of 19.71 biodiversity units based on the enhancement of the Local Wildlife Site (LWS). In both BIAs there were no accounting for the indirect impacts on the Local Wildlife Site from human pressures. The reasons for this was primarily that the impacts were regarded as insignificant based on the existing impacts. If the impact was to be recorded on the BIAs then it would not be possible to accurately reflect the impact. For example, the existing value of the LWS grasslands were recorded as

- 3.85 ha of poor semi-improved grassland of 'Medium_Low' distinctiveness and 'Moderate' condition
- 6.08 ha of semi-improved grassland of 'Medium' distinctiveness and 'Poor' condition
- 0.85 ha of Marsh / Marshy grassland of 'High' Distinctiveness and 'Poor' condition, and
- 0.17 ha of Marsh / Marshy grassland of 'High' Distinctiveness and 'Moderate' condition

For the impact to be recorded in the BIAs the moderate condition scores would drop condition to a poor condition and where habitat is currently in a poor condition the distinctiveness scores would have to drop. In this instance this infers the:

- 3.85 ha of poor semi-improved grassland becomes 'medium' distinctiveness of 'low' condition
- 6.08 ha of semi-improved grassland of 'medium-low' distinctiveness of 'moderate' condition
- 0.85 ha of Marsh / Marshy grassland of 'high-medium' distinctiveness and 'moderate' condition, and
- 0.17 ha of Marsh / Marshy grassland of 'high' distinctiveness and 'poor' condition

In my opinion, these associated changes expressed in the metric formulae would be disproportionate to the suggested insignificant indirect impacts caused by the Appeal Site. The reflection of the impacts would not be reasonable in both ecological or planning terms.

3. *I would be grateful if you could clarify whether your wish to secure an Ecological Management Plan (EMP) in respect of Gavray Drive East (GDE) Site, to include restrictions on public access, is a future requirement if and when that site comes forward for planning approval, or whether you wish to make such a plan a condition of your support for the present proposals on Gavray Drive West (GDW).*

I can confirm that if the LWS is to fulfil its maximum biodiversity potential then the direct and indirect impacts from human and associated human pressures will need to be controlled. My understanding is that this is only required when the associated impacts are or become 'significant'. Also it would be necessary for the land within the LWS to be under the control of the applicant for a condition to be enacted. At the time of my advice I was under the impression that the LWS was not under the applicant's control and, therefore, it was not an option to place a condition on any permission granted for Gavray Drive West that secured the preparation and enactment of an Ecological Management Plan for Gavray Drive East. If this position has changed at the time of the inquiry and the applicant has control of the LWS then it would become possible to enact some management prescriptions to reduce human pressures on the LWS, should the inspector conclude that the indirect impacts from Gavray Drive West be significant. I suggested a condition in previous correspondence should this be helpful at the inquiry. However, it is still my opinion that sensitive land management is the essential requirement to restore the LWS's biodiversity and that the trigger for this is to ensure no net biodiversity loss from Gavray Drive East.

4. *I attach an excerpt from the planning officer's report to committee in respect of the appeal application (paras. 7.37 – 7.39). Can you please confirm whether the position adopted by the planning officer in those paragraphs, and his recommendation that an EMP is not required in respect of GDE, was in accordance with the advice you provided to the council on ecology matters, or a departure from that advice?*

I can confirm that the position adopted by the planning officer in paragraphs 7.37 - 7.39 are in accordance with my advice at the time of when Warwickshire County Council was providing ecological advice to Cherwell DC.

Yours sincerely

David Lowe B.Sc Hons MCIEEM BES
Team Leader, Ecology, Historic Environment & Landscape
Community Services
PO Box 43
Warwick
CV34 4SX

Tel: 01926 418076

On 7 June 2018 at 17:35, Rob Rowlands <robertr@edp-uk.co.uk> wrote:

Dear David,

Further to our telephone conversation, as discussed the Appellants for the above Appeal have now had sight of the evidence of the Council and Rule 6 Parties; which includes the evidence of Mr. Woodfield.

Mr. Woodfield's evidence includes correspondence between you and he (then in your capacity as the Council's Ecologist) regarding the Appeal Site. In light of this and to avoid any ambiguity, I would be grateful if you could clarify the following:

1. Do you consider that the proposed development at the Appeal Site will result in any significant harm to the ecological interests of land adjacent to the Appeal Site at Gavray Drive East (including the Gavray Drive Meadows Local Wildlife Site) arising from increased recreational use of the latter?
2. In relation to the Biodiversity Impact Assessments prepared in consultation with you during 2017, please could you confirm why you did not consider it necessary for the BIA prepared for the Appeal Site (Gavray Drive West; GDW) to account for indirect effects?
3. I would be grateful if you could clarify whether your wish to secure an Ecological Management Plan (EMP) in respect of Gavray Drive East (GDE) Site, to include restrictions on public access, is a future requirement if and when that site comes forward for planning approval, or whether you wish to make such a plan a condition of your support for the present proposals on Gavray Drive West (GDW).
4. I attach an excerpt from the planning officer's report to committee in respect of the appeal application (paras. 7.37 – 7.39). Can you please confirm whether the position adopted by the planning officer in those paragraphs, and his recommendation that an EMP is not required in respect of GDE, was in accordance with the advice you provided to the council on ecology matters, or a departure from that advice?

Thank you in advance for your clarification on these matters. Should you wish to discuss these further then please do not hesitate to call me.

Kind Regards

Rob Rowlands

Dr. Rob Rowlands *BSc (Hons), PhD, MCIEEM, CEnv*
Director and Ecologist



The Environmental Dimension Partnership Ltd
The Stables, Sansaw Business Park, Hadnall, Shrewsbury, Shropshire SY4 4AS
t 01939 211190 m 07920 027 569 w www.edp-uk.co.uk

LANDSCAPE • ECOLOGY • HERITAGE • MASTERPLANNING • ARBORICULTURE • EXPERT WITNESS

The contents of this e-mail and any files transmitted with it are confidential.
If you have received this e-mail in error please delete it and e-mail a notification to the sender.
The Environmental Dimension Partnership Ltd. Registered as a Limited Company in England and Wales. Company No. 09102431.

This transmission is intended for the named addressee(s) only and may contain confidential, sensitive or personal information and should be handled accordingly. Unless you are the named addressee (or authorised to receive it for the addressee) you may not copy or use it, or disclose it to anyone else. If you have received this transmission in error please notify the sender immediately. All email traffic sent to or from us, including without limitation all GCSX traffic, may be subject to recording and/or monitoring in accordance with relevant legislation.