



**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 I  
MAIN TEXT**

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## Contents

### Volume I: Proof of Evidence

|                  |  |    |
|------------------|--|----|
| <b>Section 1</b> | Introduction, Witness Qualifications and Experience                              | 1  |
| <b>Section 2</b> | Summary of Baseline Ecology  | 5  |
| <b>Section 3</b> | The Ecology Strategy and Biodiversity Gain                                       | 13 |
| <b>Section 4</b> | Conformance with Legislation and Planning Policy                                 | 16 |
| <b>Section 5</b> | Consideration of CDC's Reasons for Refusal                                       | 27 |
| <b>Section 6</b> | Consideration of Ecological Matters Raised by Natural England and Rule 6 Parties | 29 |
| <b>Section 7</b> | Summary and Conclusions  | 35 |

### Volume II: Appendices (bound separately)

#### Appendices

|                     |  |
|---------------------|--|
| <b>Appendix RR1</b> | Context Plan (Policy 13 Allocation, Gavray Drive East, Local Wildlife Site, Conservation Target Area and Public Rights of Way) |
| <b>Appendix RR2</b> | Natural England Consultation Response (03 June 2015)   |
| <b>Appendix RR3</b> | Natural England Consultation Response (26 June 2017)   |
| <b>Appendix RR4</b> | Gavray Drive Meadows Local Wildlife Site (LWS) Citation  |
| <b>Appendix RR5</b> | Appellant Correspondence   |
| <b>Appendix RR6</b> | River Ray Conservation Target Area (CTA)   |
| <b>Appendix RR7</b> | Ecological Construction Method Statement (ECMS): Summary of Key Ecology Measures   |
| <b>Appendix RR8</b> | Landscape, Ecology and Arboricultural Management Plan (LEAMP): Summary of Key Ecology Measures                                 |

- Appendix RR9** BIA Metrics Calculations: Appeal Site (GDW)
- Appendix RR10** BIA Metrics Calculations Pre-Development Habitats: Appeal Site (GDW)
- Appendix RR11** BIA Metrics Calculations: GDE
- Appendix RR12** BIA Metrics Calculations Pre-Development Habitats: GDE
- Appendix RR13** Appeal Site: Parameters Plan
- Appendix RR14** GDE: Indicative Development Layout
- Appendix RR15** Natural England Consultation Response to Appeal (02 February 2018)
- Appendix RR16** CDC Planning Case Officer Report to Committee: 18 May and 15 June 2017
- Appendix RR17** CDC Notice of Decision (15/00837/OUT) 22 June 2017
- Appendix RR18** Conservation Target Areas
- Appendix RR19** Conservation Target Areas and Planning
- Appendix RR20** Bat Conservation Trust (2017) The State of the UK Bats 2017 – National Bat Monitoring Programme Population Trends
- Appendix RR21** Oxfordshire Bat Group: Species Status
- Appendix RR22** NBN Gateway: Harvest Mouse Distribution
- Appendix RR23** Butterfly Conservation: White letter hairstreak
- Appendix RR24** Butterfly Conservation: White letter hairstreak: Fact Sheet

## Volume III: Summary of Case (bound separately)

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**Section 1**  
**Introduction, Witness**  
**Qualifications and Experience**

- 1.1 My name is Dr. Robert Rowlands. I am a Director and professional ecologist at The Environmental Dimension Partnership Ltd (EDP), an independent multi-disciplinary environmental consultancy practice based in Cirencester, Cardiff and Shrewsbury. EDP specialises in the assessment of proposed land use changes.
- 1.2 I have advised Gallagher Estates (the Appellant) on ecological matters relating to Gavray Drive, Bicester (including the Appeal Site) since approximately 2002 and, via my current employer - EDP, since 2005. I also provided expert witness evidence on ecological matters to an appeal which was allowed for the proposed residential development of Gavray Drive (including the Appeal Site) during 2006.
- 1.3 Alongside David Keene of David Lock Associates (DLA), who provides planning evidence to this Appeal on behalf of the Appellant, I also provided evidence on ecology with respect to Gavray Drive, Bicester (including the Appeal Site) to the examination of the now adopted Cherwell Local Plan 2011 to 2031 and, specifically, Policy Bicester 13.
- 1.4 In relation to the current Appeal, EDP was instructed in c. 2013 to progress technical investigations for ecology, landscape/visual, archaeology/heritage and arboriculture to inform an Environmental Impact Assessment (EIA) for the development proposals subject to this Appeal. In relation to ecology, I was responsible for the preparation of the Ecology Chapter of that EIA and I prepared the update of this Chapter during 2018.
- 1.5 The evidence which I have prepared for this Appeal, as set out in my proof of evidence, together with supporting appendices, is true and has been prepared and given in accordance with the Code of Professional Conduct of the Chartered Institute of Ecology and Environmental Management (CIEEM) of which I am a full Member. I confirm that the opinions expressed in my evidence are my true and professional opinions.
- 1.6 I hold a Bachelor of Science degree (First Class Honours) in Environmental Biology from the University of Wales (Aberystwyth) and a PhD from University College Dublin. In addition to

being a full Member of CIEEM, I am also a Chartered Environmentalist (CEnv) of the Society for the Environment.

- 1.7 My experience in ecology and nature conservation covers a period of over twenty years. This ranges from practical 'hands on' conservation work through to preparing and implementing ecological mitigation strategies for habitats and species for a range of development types.
- 1.8 For four years, as part of my Doctoral research, I developed a strategy for the ecological restoration of industrial peatlands in Ireland, which involved collaborative research work on peatland ecosystems in Canada and Finland.
- 1.9 Since completing my doctoral thesis, I have worked as an ecological consultant in private practice. I have been involved in a range of projects for the private and public sector, including research contracts for statutory agencies. Of particular relevance to this Appeal, I have:
  - a. Progressed the ecological matters in relation to several similar urban extension schemes in England and Wales, including providing expert witness evidence at Appeal for some of these sites;
  - b. Undertaken collaborative work with other technical specialists in relation to investigating the impacts of development, including developments similar to those considered at Appeal, on ecological resources; and
  - c. Prepared, agreed and implemented protected species strategies including those relating to European Protected Species (EPS). These strategies include those for great crested newts, breeding birds, bat and reptile species.
- 1.10 I undertake ecological field work including protected species surveys, including those for great crested newts. I hold Natural England class licences for great crested newts and dormice.

## Scope of Evidence

1.11 My evidence with respect to ecology has been prepared in response to the decision of Cherwell District Council (CDC), contrary to its Officer's recommendation<sup>1</sup>, to refuse outline planning consent at Committee for the development proposals considered by this Appeal. Planning consent was refused for two reasons; as documented in the Notice of Decision<sup>2</sup>. My ecological evidence relates to the first reason only; namely:

1. *"The proposed development represents an inappropriate attempt at piecemeal development of the strategically allocated Bicester 13 site in the Cherwell Local Plan 2011-2031 Part 1 which, in the absence of a single comprehensive application covering the whole of the allocated site, leaves the Council unable to satisfactorily determine whether the proposals would enable development across the whole of the site to properly meet the overall objectives and requirements of Policy Bicester 13. In doing so the proposals fail to demonstrate that the allocated housing total can be appropriately provided across the allocated site in a manner that adequately protects and enhances locally significant ecological interests on the land to the east of Langford Brook which is in direct conflict with the inherent and sustainable balance contained within Policy Bicester 13 between housing delivery and biodiversity enhancement. As a result, the proposals are considered to be contrary to the overall provisions of the Development Plan and the specific requirements of Policies Bicester 13, ESD10 and ESD11 of the Cherwell Local Plan 2011-2031 Part 1."*

1.12 My evidence also addresses ecological matters raised by third parties, including Natural England and the Rule 6 Parties to this Appeal.

1.13 For clarity and given significant ambiguity with respect to what is meant by "site" in some of the correspondence/representations relating to the development proposals, in my evidence a clear distinction is made between (as illustrated at **Appendix RR1**):

(i) The Appeal Site (frequently referred to as Gavray Drive West (GDW); but referred to as 'the Appeal Site' in my evidence); and

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<sup>1</sup> CDC Planning Case Officer Report to Committee. Committee Date: 18 May and 15 June 2017  
**[Appendix RR16]**

<sup>2</sup> CDC Notice of Decision (15/00837/OUT) dated 22 June 2017 **[Appendix RR17]**

(ii) The land outside the Appeal Site but within that covered by Policy Bicester 13 (frequently referred to as Gavray Drive East (GDE); and referred to as such in my evidence).

1.14 I will demonstrate in my evidence that the development proposals, proposed on land which has been in regular arable use since at least 2002 and is of negligible ecological value in its own right, conforms fully with all relevant legislation and planning policy; including Policies Bicester 13, ESD10 and ESD11 of the adopted Local Plan. I will also demonstrate why, ecologically, the proposals do not preclude the delivery of the remainder of the development allocated by Policy Bicester 13.

1.15 My evidence should be read in conjunction with the Proof of Evidence prepared by David Keene of DLA on planning matters.

1.16 In consideration of the above, my evidence is structured as follows:

(i) In **Section 2**, I provide a summary of the ecological survey work undertaken and a brief description of the baseline ecology of the Appeal Site;

(ii) In **Section 3**, I summarise the ecology strategy that has been developed to address ecological impacts arising from the proposals both during construction and operation. I will demonstrate that the proposals are unlikely to generate any significant residual adverse effects;

(iii) In **Section 4**, I demonstrate that the proposals conform with relevant legislation and planning policy; including Policies Bicester 13, ESD10 and ESD11 of the adopted Local Plan;

(iv) In **Section 5**, I consider CDC's first reason for refusal;

(v) In **Section 6**, I address ecological matters raised by Natural England and Rule 6 Parties; and

(vi) In **Section 7**, I summarise and conclude.

## Section 2

### Summary of Baseline Ecology

- 2.1 In this section of my evidence, I summarise the ecological investigations which have been undertaken and provide a brief description of the ecology of the Appeal Site; identifying the key ecological features of the Appeal Site which were considered during the preparation of the proposals. In doing so and to avoid repetition, I make reference to the ecology chapter of the Environmental Statement (ES)<sup>3</sup>, including the 2018 Addendum<sup>4</sup>.
- 2.2 The Appeal Site has been subject regularly to ecological survey since 2002. I have been responsible for determining the scope of these investigations. I have also, in part, been involved in completing the baseline survey work with assistance as necessary from other EDP ecologists and specialists.
- 2.3 With respect to the ecology baseline which informs this Appeal, I note that CDC, Natural England nor any of the Rule 6 Parties raise any concerns regarding the sufficiency of the ecological baseline or the value attributed to the key ecological features pertinent to this Appeal.

#### **Ecological Investigations**

##### ***Desk Study***

- 2.4 During my involvement with the Appeal Site, desk studies have been regularly undertaken and updated since 2002; with the scope of the desk studies being refined over that period consistent with changes in best practice and guidance. The ecology chapter of the ES is informed by an update desk study completed during 2013 (updating an earlier desk study completed in 2010). A further update has been completed during 2018 to inform the update ecology chapter I prepared as part of the Addendum ES. The desk study has involved collating and reviewing records provided by the Thames Valley Environmental

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<sup>3</sup> Chapter 9, Environmental Statement

<sup>4</sup> Appendix D: Addendum Environmental Statement



Records Centre (TVERC) and Butterfly Conservation. The full desk study methodology is set out in the Addendum ES<sup>5</sup>.

### **Field Surveys**

2.5 Again, I am aware that since 2002, the Appeal Site has been subject to multiple field surveys. The ecology chapter of the ES which informs the Appeal proposals sets out a full account of the field surveys which have been completed<sup>6</sup>. In summary, the field surveys comprised:

- Extended Phase 1 Survey (2013; updated 2018);
- Bat activity surveys (2013);
- Tree assessments for actual/potential bat roosting and barn owl nesting (2013);
- Wintering bird surveys (2013/2014);
- Breeding bird surveys (2013);
- Badger survey (2013);
- Water vole and otter survey of Langford Brook (2013);
- Harvest mouse survey of suitable habitat (2013);
- Great crested newt survey (2013);
- Reptile survey (2013); and
- White-letter hairstreak butterfly survey (2011 and 2013).

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<sup>5</sup> Appendix D: Addendum Environmental Statement; Para. 9.2.4 to Para. 9.2.7

<sup>6</sup> Appendix D: Addendum Environmental Statement; Para. 9.2.8 to Para. 9.2.11

## **Setting the Baseline**

- 2.6 A full and detailed account of the findings of the investigations undertaken is provided in chapter 9 of the ES and Appendix D of the Addendum ES. I summarise below the findings of these investigations and the key ecological characteristics of the Appeal Site which I consider relevant to this Appeal *i.e.* those identified as Important Ecological Features (IEFs) within chapter 9 of the ES<sup>7</sup> and Appendix D of the Addendum ES.
- 2.7 A full description of the Appeal Site is included within Mr. Keene's evidence. However, in summary, the site consists of a single arable field bounded by Gavray Drive to the south with Langford Village beyond. It is bound by railway lines to the north and west with the built development of Bicester beyond these. The eastern boundary is defined by Langford Brook with the remainder of the land (GDE) allocated for development by Policy Bicester 13 beyond this.

## **Statutory Designations**

- 2.8 I confirm that the Appeal Site is not covered by or adjacent to any statutory designations.
- 2.9 I also confirm that two statutory designations were considered within the ecology chapter of the ES and Addendum ES; namely:
1. Wendlebury Meads and Mansmoor Closes Site of Special Scientific Interest (SSSI) – located 5.5km southwest of the Site ('as the crow flies'); and
  2. Otmoor SSSI – located 7.4km southwest of the Site ('as the crow flies').
- 2.10 I conclude that neither were considered IEFs for the purposes of the ES since neither were likely to be significantly impacted by the development proposals. This was consistent with the response provided by Natural England to the Scoping Report which states that the proposal "*...does not appear, from the information provided, to affect any nationally designated geological or ecological sites (Ramsar, SPA, SAC, SSSI, NNR)...*". In addition, Natural England has confirmed that 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 SSSIs] were notified. We therefore*

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<sup>7</sup> Appendix D: Addendum Environmental Statement; Para. 9.4.2 to Para. 9.4.61

advise the authority that [the SSSIs] do not represent a constraint in determining this application". I include Natural England's consultation responses to the application as **Appendices RR2** and **RR3** of my evidence.

### ***Non-statutory Designations***

- 2.11 I confirm that the Appeal Site is not covered by any non-statutory designations.
- 2.12 As summarised in chapter 9 and Appendix D of the ES and Addendum ES, respectively, the only non-statutory designation considered pertinent to the Appeal Proposals, and therefore an IEF for the purposes of the ES, is Gavray Drive Meadows Local Wildlife Site (LWS). The citation and plan showing the extent of the LWS are included as **Appendices RR4** and **RR1** of my evidence respectively. The LWS is designated due to the lowland meadow habitat it supports and associated notable species.
- 2.13 Recreational pressure on the designated interests of the LWS was considered within the ES and Addendum ES. The ES concluded that the development proposals would have no significant residual adverse effect on the LWS. I note that this conclusion is also made by the Planning Officer's Report to Committee which states (noting the need for interventions through planning decisions to be "*necessary, reasonable and proportionate*") that "*...increase in recreational use of the LWS is therefore unlikely to be material*"<sup>8</sup>.
- 2.14 The LWS lies adjacent to the Appeal Site and is separated from it by Langford Brook. There is no direct access from the Appeal Site to the LWS. The LWS is in private ownership and there are no recognised Public Rights of Way (PRoW) within or through the LWS. A PRoW does run adjacent to the LWS (along, in part) its southern boundary; as illustrated at **Appendix RR1** of my evidence.
- 2.15 Given that I have visited the LWS on multiple occasions at various times of year since 2002, I am aware that the LWS is subject to trespass; via access from the PRoW referred to above. The issue of trespass is also acknowledged by CDC<sup>9</sup>. However, since 2002, I consider that the pattern and extent of trespass has changed little within the LWS with an established network of informal pathways evident. It is my opinion that the network of informal pathways present within the LWS is mainly, and will continue to be, dictated by:

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<sup>8</sup> Planning Officer's Committee Report: Para. 7.38 [**Appendix RR16**]

<sup>9</sup> Planning Officer's Committee Report: Para. 7.39 [**Appendix RR16**]

- (i) Ground conditions (the site is wet to very wet regularly throughout the year);
- (ii) Vegetation (dense hedgerows/scrub with few gaps combined with tussocky grassland);
- (iii) Desire lines; and
- (iv) The personal safety considerations of the walker. I understand that the Appellant has requested that the public do not access land within private ownership which contains no Public Right of Way. I include correspondence at **Appendix RR5** of my evidence.

2.16 Mindful of the scale of the proposal and the context of existing trespass, I do not consider that any additional trespass the proposed development will generate will be significant. This is also the conclusion of the Planning Officer's report to Committee which states in relation to trespass that "*...officers are not convinced that it would be to such a level that it would be materially significant in the context of the existing levels of trespass*"<sup>10</sup>.

2.17 Despite the blatant trespass within the LWS, the ecological interest of the LWS remains; as evidenced in Appendix 9.1 of the ES and the representations made by the Rule 6 Parties to this Appeal. I consider that the main threat to the habitat for which the LWS is designated and the species associated with this habitat is not recreational pressures but the lack of appropriate management of the habitat. For instance, since I gave evidence to Appeal in 2006 and as I predicted at that stage, core areas of the LWS have seen extensive scrub encroachment and the establishment of self-seeding trees; all to the detriment of the meadow habitats for which the LWS is principally designated.

### **Other Designations**

2.18 The Appeal Site is identified, in part and as illustrated at **Appendix RR1** of my proof, as part of the Ray Conservation Target Area (CTA). A copy of the citation for the CTA is included as **Appendix RR6** of my evidence. The Ray CTA overall covers an area of 1192ha and approximately 0.1% of this lies within the Appeal Site; the majority of it is currently in arable use of negligible ecological value. Due to the purpose and nature of the CTA, it was not considered an IEF for the purpose of the ES, however I refer to it here given that it is

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<sup>10</sup> Planning Officer's Committee Report; Para. 7.39 [**Appendix RR16**]

pertinent with respect to demonstrating conformance with planning policy; particular Policy Bicester 13. The Appeal proposals include the provision of c. 1.59ha of semi-improved neutral grassland (**Appendix RR9**) and I consider that this will compliment significantly the target of the CTA to create 5ha of lowland meadow (**Appendix RR6**) and further consolidate and enhance the grassland habitats within the Gavray Drive LWS which lies adjacent to the Appeal Site consistent with Policy Bicester 13.

- 2.19 I understand that CTA's "*identify some of the most important areas for wildlife conservation in Oxfordshire; where targeted conservation action will have the greatest benefit*" and that they cover over 20% of Oxfordshire (by area). They apparently "*provide a focus for coordinated delivery of biodiversity work, agri-environment schemes and biodiversity enhancements through the planning system*"<sup>11</sup>. I consider it notable that enhancements delivered through development are one of the three delivery mechanisms for the aims and objectives of CTAs.
- 2.20 CTA's do not preclude development and I note, in particular the following guidance provided with respect to CTA's and development: "*consideration should in all cases be given to ensuring that any development within a CTA increases connectivity of wildlife habitats within target areas and results in a net gain for biodiversity*"<sup>12</sup>. Given that the development proposals will deliver new grassland habitat (c. 1.59ha) within the CTA together with a net gain in biodiversity, immediately adjacent to Gavray Drive LWS which is also part of the CTA, I consider that the proposals are consistent with this guidance.

## Habitats

- 2.21 In relation to habitats, the Appeal Site is dominated by arable and the land has been in regular arable use since my involvement with the site in 2002. The majority of the Appeal Site is considered to be of negligible ecological value and this is consistent with the Officer's report to CDC's Planning Committee who concluded "*...the land to be developed is arable and so of very little value as ecological habitat...*"<sup>13</sup>. Since the ES was prepared, the western part of the site was used as the work compound for railway works to the north and west of the site. The compound has now been removed and the land restored to arable use.

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<sup>11</sup> <https://www.wildoxfordshire.org.uk/biodiversity/conservation-target-areas/> [**Appendix RR18**]

<sup>12</sup> <https://www.wildoxfordshire.org.uk/biodiversity/conservation-target-areas/ctas-and-planning/> [**Appendix RR19**]

<sup>13</sup> Planning Officer Committee Report; Para. 7.32 [**Appendix RR16**]

2.22 For the purpose of the ES, two habitats were identified as IEFs which merited consideration within the ES; namely Langford Brook and the trees associated with Langford Brook. They define the eastern boundary of the Appeal Site. These were reconfirmed as remaining pertinent in the Addendum ES prepared during 2018. I consider both IEFs to be of local value. Both are fully retained by the development proposals with a significant greenspace buffer between them and the proposed built development. Subject to the measures set out in the Ecology Strategy (summarised in my evidence at **Section 3**, the development proposals will have no significant residual adverse effects on any habitat; with the Biodiversity Impacts Assessment (BIA) calculations (**Appendix RR9**) showing a moderate net gain in biodiversity.

### ***IEF Species***

2.23 The ES identified four species/species-groups as IEFs; namely bats, breeding birds, harvest mouse and white-letter hairstreak butterfly. Other than white-letter hairstreak butterfly, the main activity by all species are concentrated on habitats peripheral to the Appeal Site. I document this within the chapter 9 of the ES and Appendix D of the Addendum ES. All are considered to be of local value and, subject to the measures set out in the Ecology Strategy (summarised in my evidence at **Section 3**, the Appeal proposals will have no significant residual adverse effects on any IEF species.

2.24 With respect to bats, all trees within the Appeal Site with bat roosting potential are associated with Langford Brook. These trees are retained and will be separated from the built development by a significant greenspace buffer. Bat foraging/commuting habitat within the Appeal Site is restricted to the southern and eastern boundaries and the level of activity is described as “*significantly low*” and dominated by two common and widespread bat species nationally and within Oxfordshire; namely common and soprano pipistrelle<sup>14,15</sup>. Both species have seen a statistically significant increase in populations between 1999 and 2017<sup>16</sup>.

2.25 In relation to breeding birds, the Appeal Site does not support any notable assemblage of bird species greater than of local value and does not support any notable population of one

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<sup>14</sup> Bat Conservation Trust (2017) *The State of the UK Bats 2017 - National Bat Monitoring Programme Population Trends* [**Appendix RR20**]

<sup>15</sup> <http://www.oxfordshirebats.org/oxfordshire-bats.html> [**Appendix RR21**]

<sup>16</sup> Bat Conservation Trust (2017) *The State of the UK Bats 2017 - National Bat Monitoring Programme Population Trends* [**Appendix RR20**]

or more species. Breeding birds are collectively included as a single IEF for the purpose of the ES. Again, the main opportunities for breeding birds are peripheral to the Appeal Site and, other than the section of hedgerow which will be removed, these will be retained and enhanced by the Appeal proposals.

- 2.26 With respect to harvest mouse, a single nest was identified through survey within the Appeal Site; located in its south east corner. The population is known not to be restricted to the Appeal Site; surveys have identified the species as being present within GDE. The British distribution of this species is generally south east of a line from the Bristol Channel to the Humber and therefore the species is within the core of its British population range. In addition, it has been recorded throughout Oxfordshire<sup>17</sup>. The population within the Appeal Site is considered to be of local value.
- 2.27 White-letter hairstreak butterfly was recorded within the remnant hedgerow within the Appeal Site. The species is associated with elm which is located within this hedgerow. Surveys completed to inform the ES, identified one adult associated with this hedgerow. It is considered notable that significant areas of elm were also located within GDE; with both eggs and adults recorded in GDE with significantly more extensive stands of suitable elm compared to the Appeal Site. The species is considered to be widespread in England, but the species have undergone a significant decline since the 1970s; the decline appears to be linked to the decline of elm due to Dutch elm disease<sup>18,19</sup>. The population recorded within the Appeal Site is considered to be of local value.

### ***Other Species***

- 2.28 Due to the dominance of arable use within the Appeal Site, the ES considers that great crested newts and common reptile species which have been recorded locally, including within GDE, are unlikely to be present within the development footprint of the Appeal Site and therefore they were not considered IEF for the purpose of the ES and will not be significantly adversely affected by the proposals. The Appeal Site, due to its arable use, has limited opportunities for these species and the key opportunities are all peripheral to the Appeal Site.

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<sup>17</sup> NBN Gateway [**Appendix RR22**]

<sup>18</sup> <https://butterfly-conservation.org/679-709/white-letter-hairstreak.html> [**Appendix RR23**]

<sup>19</sup> <https://butterfly-conservation.org/files/white-letter-hairstreak-psf.pdf> [**Appendix RR24**]

## Section 3

### The Ecology Strategy and Biodiversity Gain

3.1 In this section of my evidence, I set out the ecology strategy which has been developed for the proposals. Fundamentally, the ecology strategy for the Appeal Site has remained unchanged during the period I have advised the Appellant (c. 2002 to date). For the Appeal Site, it is consistent with the ecology strategy which was accepted by the Inspector during the 2006 Appeal; as detailed in Mr. Keene's evidence.

#### Ecology Strategy

3.2 The strategy which I devised consists of four main elements as documented in chapter 9 of the ES and Appendix D of the Addendum ES, namely:

- (i) Inherent Measures: These are measures incorporated into the design of the proposed development. These measures include:
  - (a) The retention of a significant undeveloped buffer between the built development and Langford Brook;
  - (b) The enhancement of this buffer to deliver biodiversity gain;
  - (c) The retention of all mature trees; including those with bat roosting potential; and
  - (d) Maximising the quantum of development within the Appeal Site to minimise the quantum of development which would need to be delivered within GDE consistent with Policy Bicester 13 *i.e.* locating the majority of the allocated development within the part of Gavray Drive with minimal ecological constraints in relation to habitats and species. This has been accepted by CDC;
- (ii) Ecological Construction Method Statement (ECMS): The ECMS will be secured through a suitably worded planning condition and will include measures to avoid, protect, mitigate and enhance during the construction phase consistent with chapter 9 of the ES and Appendix D of the Addendum ES. The delivery of these measures enables the



ES to conclude that the Appeal proposals will result in no residual significant adverse effects. The ECMS also includes Reasonable Avoidance Measures (RAMs) with respect to great crested newts and common reptile species known locally; including within GDE. I include a summary of the key measures to be included within ECMS at **Appendix RR7** of my evidence.

- (iii) Ecological Clerk of Work (ECW): The ECW will be appointed by the developer to ensure the implementation of the ECMS. The appointment and approval of the ECW will be secured via a suitably worded planning condition.
  
- (iv) Landscape, Ecology and Arboricultural Management Plan (LEAMP): The LEAMP will be developed to ensure the long-term management, enhancement and conservation of retained and new habitats within the Appeal Site. It is a key measure to secure the biodiversity gain identified through the BIA calculations set out in **Appendices RR9** and **RR10** of my proof. I include a summary of the key measures to be included within the LEAMP at **Appendix RR8** of my evidence. The LEAMP will be secured and funded via a S106 obligation with the greenspace to be adopted by CDC and the LEAMP delivered by it in the long-term.

### **Biodiversity Gain**

3.3 With respect to biodiversity gain and at the request of CDC prior to the determination of the development proposals by its Planning Committee, the Appellant was requested by CDC to complete a Biodiversity Impact Assessment (BIA) calculation using the methodology/metrics developed by Warwickshire County Council. I understand that the outcome of the BIA calculation was to guide CDC's decision making rather than using it as a definitive tool to determine net gain. I am aware, from the project work that I and my colleagues are involved with, that this methodology is widely used and applied to the majority, if not all, development proposals in Warwickshire and further afield; many of which have received planning consent including at Appeal. I understand this was requested by CDC to inform its consideration of the Appeal proposals with respect to the requirements of Policy Bicester 13.

3.4 The BIA calculation for the Appeal Site (and separately for GDE) was completed in consultation and agreement with CDC's Ecology Officer. The BIA calculation for the Appeal

Site is included at **Appendix RR9** of my evidence and, for completeness, I have also included the calculation for GDE at **Appendix RR11**.

- 3.5 I based the ‘before development’ habitat information inputted into the calculations on the ecology baseline information included within the ecology ES chapter which informs the Appeal proposals. This information is summarised for the Appeal Site and GDE separately at **Appendices RR10** and **RR12**.
- 3.6 The ‘post development’ calculations were based on the Parameters Plan for the Appeal Site (reproduced at **Appendix RR13** of my evidence) and the Indicative Development Layout for GDE; the latter tabled to the Inspector by Mr. Keene of DLA during the Examination of the now adopted Local Plan (reproduced at **Appendix RR14**).
- 3.7 I also considered the ‘post development’ calculations for the Appeal Site with respect to the Ecology Strategy summarised above with respect to habitat retention, enhancement and creation and the long-term management of these habitats. I understand that these measures will be mirrored by GDE when it is brought forward for planning approval.
- 3.8 In summary, the BIA demonstrated that the development proposals are capable of delivering a modest biodiversity gain (2.90) and that GDE, once it is brought forward consistent with Policy Bicester 13, is capable of delivering a significant biodiversity gain in its own right (19.74). I note that the planning officer’s report to CDC’s planning committee states that “...the Council’s ecologist has reviewed the submitted BIA for the proposed development and is satisfied that it provides a realistic and robust appraisal of the long-term impacts of the proposed development and demonstrates opportunity for modest net gains for biodiversity...”<sup>20</sup>.

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<sup>20</sup> Planning Officer Report to Committee; Para. 7.34 [**Appendix RR16**]

## Section 4

### Conformance with Legislation and Planning Policy

- 4.1 In this section, I set out the relevant nature conservation legislation and planning policy considerations which have been addressed by the proposals. I note that CDC's first reason for refusal, as documented as **Section 1** of my evidence, make no reference to the proposals being contrary to any pertinent legislation. Where applicable, I cross reference to **Sections 2** and **3** of my proof.

#### Legislation

##### **Statutory Designations**

- 4.2 The Appeal Site is not covered by, or immediately adjacent to, any statutorily designated sites and, as concluded in the ES, no such designations will be significantly adversely affected by the Appeal proposals. Hence, I consider that the proposals do not contravene the protection afforded to statutorily designated sites.

##### **Non-statutory Designations**

- 4.3 Non-statutory designations do not receive any legal protection in their own right. However, Gavray Drive LWS, which lies to the east and adjacent to the Appeal Site supports habitats and species listed as Habitats and Species of Principal Importance with respect to Section 41 of the Natural Environment and Rural Communities Act 2006 (NERC Act); including those listed within the citation for the LWS included at **Appendix RR4** of my evidence.
- 4.4 Section 40 of the NERC Act states that "*[the] public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*". As concluded in chapter 9 of the ES and Appendix D of the Addendum ES, the development proposals will have no residual significant adverse effects on the designated interests of the LWS. In addition, the appeal proposals will deliver new grassland habitat which will compliment and buffer the grassland habitats within the LWS; a primary reason for the designation of the LWS. I therefore

consider that it is reasonable to conclude that the Appeal proposals fully respect the duty to set out in Section 40 as it relates to Gavray Drive LWS.

### **Habitats**

- 4.5 The habitats within or adjacent to the Appeal Site do not receive any statutory protection and, due to the measures set out in chapter 9 and Appendix D of the Addendum ES, I consider that the Appeal proposals fully accord with the duty to conserve set out in Section 40 of the NERC Act.

### **Species**

- 4.6 Bats and their places of refuge receive statutory protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 2017. With respect to the latter, bat species are European Protected Species (EPS) in accordance with Regulation 42. All the trees with bat roosting potential are retained and significantly buffered by the Appeal proposals. In addition, due to the measures included within the ES with respect to bats, I consider that the proposals conform fully with the legal protection afforded to bat species under Regulation 43 and therefore the need for derogation licensing with respect to Regulation 55 is not engaged.
- 4.7 All breeding birds receive protection under the Wildlife and Countryside Act 1981 (as amended; WCA). Measures are set out in the ES to ensure conformance with the protection afforded to breeding birds. The measures will be included within the ECMS and overseen by the ECW. The ECMS and ECW are capable of being delivered through appropriately worded planning condition(s). In light of this, I consider that reasonable and standard measures are capable of being secured to ensure conformance with the WCA as it relates to the protection of breeding birds.
- 4.8 Neither harvest mouse nor white-letter hairstreak butterfly receives any specific legal protection in the UK; other than indirectly through the duty on public authorities to have regard to the purpose of conserving biodiversity (Section 40 of the NERC Act) by virtue of their status as Species of Principal Importance. Measures set out in the ES are included to ensure that the species are conserved by the development proposals. These measures are to be included within the ECMS and LEAMP respectively; as I have summarised at

**Appendices RR7** and **RR8** respectively. I therefore consider that the duty to have regard to the purpose of conserving biodiversity can be met in full by the Appeal proposals insofar as engaged in respect of these two species.

- 4.9 Both great crested newts and common reptiles are present in the locality, including within GDE, however I consider they are unlikely to be present within the Appeal Site mindful mainly of its arable use; which does not provide an optimal habitat for either species/species-group. Great crested newts receive legal protection consistent with Bats, as I have detailed above, while common reptiles receive a limited level of protection (killing and injury) under the WCA. I consider that it is unlikely that the legal protection afforded great crested newts and common reptile species will be infringed. However, as an additional level of assurance, reasonable avoidance measures for these species are included within the ES. These measures are to be included within the ECMS and LEAMP; as I have summarised at **Appendices RR7** and **RR8** respectively. I therefore consider that the legal protection afforded to these species can be fully respected by the Appeal proposals.

## **Planning Policy**

### ***National Planning Policy Framework (March 2012; NPPF)***

- 4.10 The NPPF includes a number of national planning policy provisions relevant to ecology and therefore my evidence. Below, I identify the policies which I consider relevant and demonstrate how I consider the Appeal proposals conform with each.
- 4.11 Para. 109 states that the planning system “...*should contribute to and enhance the natural...environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*”. With respect to the Appeal proposals I consider the following:
- (i) As demonstrated by the ES; the Appeal proposals will not result in any residual significant adverse effect. Therefore I consider this demonstrates that the proposals “*minimise impacts on biodiversity*”;

- (ii) Mindful of Policy Bicester 13 which I address in full later in my evidence, the quantum of development within the Appeal Site has been maximised in order to minimise the quantum of development that will be delivered within GDE; capitalising on the lack of ecological constraint within the Appeal Site. This again is a measure to minimise the impact on biodiversity from the delivery of Policy Bicester 13 in full once the proposals for GDE come forward for planning approval. I consider that this is a prudent approach which again conforms with the NPPF's requirement to "*minimise impacts on biodiversity*";
  
- (iii) The NPPF has an aspiration for development to deliver a net gain in biodiversity where possible [my emphasis]. It is my opinion that qualitatively, due to the site being in regular arable use for at least 16 years and mindful that the greenspace adjacent to Langford Brook will be specifically designed to deliver ecological enhancement to compliment the adjacent LWS and the aims of the Ray CTA, the proposals will deliver a net gain in biodiversity. This was further confirmed quantitatively through the BIA calculations summarised at **Section 3** of my evidence, which demonstrates that the proposals will quantitatively deliver a modest net gain in biodiversity. In light of this, I consider that the Appeal proposals conform with the NPPF's aspiration for development to deliver a net gain in biodiversity; and
  
- (iv) As documented in **Section 3** of my evidence, the Appeal proposals respect in full and contribute to the aims and aspirations of the Ray CTA. The CTA being a locally identified network of habitat which will deliver, strategically, biodiversity gain. I therefore believe that the proposals are consistent with the NPPF's requirement to establish "*...coherent ecological networks that are more resilient to current and future pressures.*"

4.12 Para. 118 sets out the principles which should be applied when determining planning applications with the aim of conserving and enhancing biodiversity. With reference to Para. 118 I consider these principles in turn below:

- (i) As I have demonstrated in **Sections 3** of my evidence and as concluded by the ES (subject to the application and implementation of certain conditions and obligations), the Appeal proposals will not result in significant ecological harm;
  
- (ii) As documented at **Section 3** of my evidence, the Appeal proposals will not have an adverse effect on any SSSI;

- (iii) Opportunities to incorporate biodiversity into the Appeal proposals have been taken; as documented in **Section 3** of my evidence;
- (iv) As evidenced at **Section 2**, the Appeal proposals will not result in the loss or deterioration of irreplaceable habitats; and
- (v) The Appeal proposals have no effects on European Sites (*i.e.* Special Areas of Conservation (SACs) and Special Protection Areas (SPAs); including those which are identified as potential or possible designations). As a result, with respect to ecology, the NPPF's presumption in favour of sustainable development can be applied to the Appeal proposals (consistent with Para. 119).

4.13 In light of the above, I conclude that the Appeal Proposals conform fully with the relevant policies of the NPPF.

#### ***Cherwell Local Plan 2011-2031 (Part 1)***

4.14 As reproduced at **Section 1** of my evidence, CDC's first reason for refusal considers that the appeal proposals are contrary to the requirements of Policies Bicester 13, ESD10 and ESD11. I also consider these to be the pertinent local planning policies and I consider each in turn below.

#### ***Policy Bicester 13***

4.15 The Appeal Site, alongside GDE, is allocated for residential development (300 dwellings) through Policy Bicester 13. The allocation of the site has been given significant scrutiny; including through the examination of the Local Plan. I am aware that several of the Rule 6 parties provided evidence to this examination and, specifically, with respect to Policy Bicester 13. I consider that the principle of development within the area allocated in Policy Bicester 13 is well established and has been subject to significant scrutiny, including the acceptability of residential development in relation to both the LWS and Ray CTA.

4.16 Policy Bicester 13 sets out key principles for the allocated development and I consider that the Appeal proposals accord fully with these principles. In addition, I do not believe that the Appeal proposals ecologically preclude the remaining allocated development (GDE) coming forward at a later date and also being able to demonstrate full conformance with Policy Bicester 13. In stating this, I also note the commentary included within the Planning

Officer's Report to Committee which states that "...officers are satisfied that proposals on part of the site can be acceptable...provided they do not fetter the ability to achieve the objectives of the allocation policy overall"<sup>21</sup>.

4.17 I document my rationale as to why I consider the Appeal proposals conform with the provisions of Policy Bicester 13 as follows:

- (i) As I demonstrated in **Sections 2** and **3** of my evidence, no built development is located within the Ray CTA. The part of the Appeal Site located within the Ray CTA currently makes no significant ecological contribution to the CTA (it is dominated by arable land). The Appeal proposals compliment the aims of the CTA by reverting arable land into grassland of greater biodiversity value; again consistent and complimentary to the aims of the CTA. Therefore, I believe that the Appeal proposals will "...avoid adversely impacting..." on the CTA and will in fact deliver biodiversity gain within the CTA through the reversion of arable land to grassland of greater biodiversity value. I also note in the Planning Officer's report to Committee which states "...The Council's ecologist has reviewed the submitted BIA for the proposed development and is satisfied that it ...demonstrates opportunity for modest net gains or biodiversity...which would contribute towards the habitat targets for the Ray CTA"<sup>22</sup>;
- (ii) As I demonstrate below, I consider that the proposals are in full compliance with Policy ESD11. I demonstrate at **Section 3** of my evidence that the appeal proposals are capable of delivering a modest biodiversity gain. Development of GDE holds out the potential to deliver significant biodiversity gain, and development of the Appeal Site does not in any way prejudice or undermine that potential;
- (iii) The Appeal proposals do not include any land covered by the LWS and measures (as detailed in **Sections 2** and **3**) of my proof, including a significant area of greenspace between the built development and the LWS, will protect the LWS as it relates to the Appeal proposals. As documented in the ES, no residual significant adverse effects on the LWS are anticipated;
- (iv) Detailed consideration of ecological impacts is set out in the ES and, with respect to the measures documented at **Section 3** of my evidence, no residual significant

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<sup>21</sup> Planning Officer's Committee Report, Para. 7.36 [**Appendix RR16**]

<sup>22</sup> Planning Officer's Committee Report, Para. 7.34 [**Appendix RR16**]



adverse effects on ecology are anticipated. This does not preclude the same level of detailed consideration being given to the remainder of the allocated development at GDE coming forward subsequently;

- (v) As documented at **Section 3** of my evidence, a Management Plan is proposed for the Appeal Site and a mechanism for its delivery in the long-term has been identified for the Appeal proposals. It is my recommendation to the Appellant that a “mirror” Management Plan and mechanism for delivery can be delivered for the remainder of the allocated development at GDE when it comes forward. Nothing within the Management Plan proposed for the Appeal Site will conflict with the measures which I anticipate will be included within the Management Plan for GDE when it comes forward;
- (vi) The Appeal proposals, as documented in **Section 3** of my evidence, retains and enhances the significant landscape features pertinent to the Appeal site, including the corridor of the Langford Brook and delivers as pertinent to the Appeal site a central corridor of open spaces either side of Langford Brook. The Appeal proposals do not preclude the same corridor being retained and delivered as part of GDE when it comes forward;
- (vii) The Appeal proposals do not provide or depend upon providing formal access within the LWS and no such access is encouraged by the proposals (e.g. no new connection across Langford Brook into the LWS);
- (viii) The greenspace delivered by the Appeal proposals provide a continuation of the greenspace corridor along Langford Brook south of the Appeal Site; thereby providing greenspace linkages beyond the development site. The Appeal Site does not preclude similar linkages being delivered by GDE once it comes forward; and
- (ix) As I have documented in **Section 3** of my evidence, no significant adverse effects are anticipated on any downstream SSSIs. Again, the Appeal proposals do not preclude GDE also demonstrating no significant adverse effects on SSSIs once it comes forward.

**Policy ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment**

4.18 This policy sets out how the protection and enhancement of biodiversity and the natural environment will be achieved. I consider that the Appeal proposals conform fully with this policy for reasons tabulated below (**Table 4.1**).

**Table 4.1 – My Consideration of Policy ESD10**

| Policy Wording  | Conformance  |
|---|--|
| <p>1. <i>In considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources and by creating new resources.</i></p> | <p>(a) I consider that qualitatively and quantitatively, the appeal proposals will deliver a net gain in biodiversity; as documented at <b>Section 2</b> of my evidence.</p> <p>(b) As documented in <b>Section 3</b> of my evidence, measures are capable of being secured through conditions and obligation to protect, manage, enhance and extend existing resources and through the creation of new resources. New resources include the creation of new grassland habitats from land currently in arable use.</p> |
| <p>2. <i>The protection of trees will be encouraged.</i></p>  | <p>(a) All trees are retained and protected by the proposed development with measures included for their protection (as documented in <b>Section 3</b> of my evidence) with a mechanism through condition to ensure that these measures are implemented.</p>   |
| <p>3. <i>If significant harm from development can't be avoided, mitigated or compensated then development will not be permitted.</i></p>  | <p>(a) As documented in chapter 9 of the ES and subject to the application of certain conditions and obligations, no significant ecological harm will arise as a result of the Appeal proposals.</p>   |

| Policy Wording   | Conformance   |
|--|---|
| 4. <i>Development resulting in damage to sites of International value will be resisted.</i>  | (a) As documented in chapter 9 of the ES, no significant ecological harm to sites of International value will arise as a result of the Appeal proposals.  |
| 5. <i>Development resulting in damage to or loss of a site of national importance will be resisted.</i>  | (a) As documented in chapter 9 of the ES, no significant ecological harm to sites of national importance will arise as a result of the Appeal proposals.  |
| 6. <i>Development resulting in damage to or loss of a site of biodiversity value of regional or local importance including habitats or species of Principal Importance will be resisted.</i>   | (a) As documented in chapter 9 of my evidence, no significant ecological harm to sites of regional or local importance, including Gavray Drive LWS, will arise as a result of the Appeal proposals.   |
| 7. <i>Development will be expected to incorporate features to encourage biodiversity and retain and, where possible enhance, existing features of nature conservation value within the site.</i>   | <p>(a) As documented in <b>Sections 2</b> and <b>3</b> of my evidence, existing features of nature conservation value are retained and enhanced by the Appeal proposals.</p> <p>(b) The Appeal proposals include features to encourage biodiversity; including the creation of new grassland on land currently in arable use which will compliment the features of the LWS and the aims of the Ray CTA.</p> |
| 8. <i>Existing ecological networks should be identified and maintained to avoid habitat fragmentation, and ecological corridors should form an essential component of green infrastructure provision in association with new development and to ensure habitat connectivity.</i> | (a) I consider that the key ecological networks pertinent to the site are the Ray CTA and the greenspace corridor along Langford Brook. Both are respected and enhanced by the measures included within the Appeal proposals. The proposals will not result in any fragmentation to these networks; rather I believe that the measures proposed will  |

| Policy Wording  | Conformance   |
|---|---|
|   | consolidate and enhance these networks.   |
| 9. <i>Relevant habitat and species surveys and associated reports will be required to accompany planning applications which may affect a site, habitat or species of known or potential ecological value.</i> | (a) The Appeal proposals have been subject to a full Environmental Impact Assessment (EIA) documented within the ES, which considers habitats and species of known or potential ecological value at chapter 9.  |
| 10. <i>Planning conditions/obligations will be used to secure net gains in biodiversity by helping deliver Biodiversity Action Plan targets and/or meeting the aims of Conservation Target Area.</i>          | (a) As document at <b>Section 3</b> of my evidence, conditions and obligations are proposed to secure the net gains to biodiversity. These include meeting the aims of the Ray CTA.   |
| 11. <i>A monitoring and management plan will be required for biodiversity features on site to ensure their long-term suitable management.</i>   | (a) As document at <b>Section 3</b> of my evidence, an obligation is proposed to secure a Landscape, Ecology and Arboricultural Management Plan (LEAMP) for the proposed development to ensure that the biodiversity features of the site (both retained and created) are subject to suitable long-term management. |

**Policy ESD11 – Conservation Target Areas**

4.19 With respect to Policy ESD11 (Conservation Target Areas), I believe that the Appeal proposals conform fully with the provisions for this policy and also do not preclude GDE also conforming fully with this policy once it comes forward. My rationale is as follows:

- (i) The ES, subsequent Addendum and layout of the Appeal proposals takes account of the CTA and the Appeal proposals will deliver enhancement and biodiversity gain within the CTA commensurate with the aims of that CTA. The Appeal proposals do not preclude GDE from delivering enhancements and gain as documented at **Section 2**.

- (ii) In relation to the biodiversity enhancements to be delivered by the Appeal proposal, there is a clear mechanism for their delivery and long-term management and maintenance; as documented at **Section 3** of my evidence. This mechanism does not conflict or preclude with the delivery of a similar “mirror” mechanism when GDE comes forward.

### **Conclusion**

- 4.20 In conclusion, for the reasons I have set out above, it is my opinion that the Appeal proposals fully accord with relevant legislation and planning policy; including Policy Bicester 13, ESD10 and ESD11.

## Section 5

### Consideration of CDC's Reasons for Refusal

- 5.1 My evidence considers only the first reason for refusal given by Cherwell District Council; as summarised at **Section 1** of my evidence. CDC considers that the proposals are contrary to the requirements of Policies Bicester 13, ESD10 and ESD11.
- 5.2 As I have documented in **Section 4** of my proof, it is clear that the Appeal proposals are in complete conformance with these Policies and, importantly, do not preclude or inhibit the remainder of the allocated development (GDE) coming forward and also conforming with these policies in due course. This is consistent with the conclusions reached also by CDC's Planning Officer who concludes that subject to the imposition of conditions "*...officers are satisfied that the proposals would adequately protect and enhance biodiversity on the site as well as adequately mitigat[ing] any limited harm to protected and priority species in accordance with the requirements of Policies Bicester 13, ESD10 and ESD11 as well as national policy contained within the NPPF*"<sup>23</sup>. The report also goes on to state that "*...furthermore, there is no evidence that the proposals would give rise to direct or indirect material harm to the adjacent Gavray Drive LWS or the wider River Ray CTA.*"
- 5.3 When the remainder of the allocated development does come forward, it too will have to demonstrate full conformance with these policies also. Ecologically, I consider that there is no reason why, despite being covered by a single allocation policy, the allocated development cannot be brought forward separately as two planning applications. In stating the above, I am conscious of the Planning Officer's report to CDC's planning Committee which states:

*"... with the proposed development demonstrating opportunity for material gains for biodiversity both generally and within the River Ray CTA, officers are satisfied that the application is making the necessary contribution toward the ecological enhancement objectives contained within Policy Bicester 13 and does not lead to any further pressure on the remainder of the allocated site to rectify any deficiencies in this respect which might in turn prejudice the value of the LWS or CTA*"<sup>24</sup>.

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<sup>23</sup> Planning Officer's Committee Report, Para. 7.41 [**Appendix RR16**]

<sup>24</sup> Planning Officer's Committee Report; Para. 7.35 [**Appendix RR16**]

5.4 In conclusion therefore, I consider that the reason for refusal is illogical and unfounded. I, and CDC's Planning Officer, consider that the application conforms fully with local and national planning policy and does not preclude or hinder the remainder of the allocated development coming forward as a separate planning application which I consider will also be able to demonstrate full conformance with these policies also.

## Section 6

### Consideration of Ecological Matters Raised by Natural England and Rule 6 Parties

6.1 The proposed development of Gavray Drive has always attracted significant attention by a number of parties. In this Section, alongside considering the consultation responses of Natural England, I consider the key issues raised in the Statements of Case received from Rule 6 Parties to this Appeal.

#### Natural England

6.2 Natural England is the Government's statutory authority with respect to matters relating to ecology and nature conservation.

6.3 Two consultation responses were received from Natural England (NE) prior to CDC determining the application; namely on the 03 June 2015 and 26 April 2017 (copies of which are included as **Appendices RR2** and **RR3** of my evidence).

6.4 In its first consultation response it raised no objections to the proposed development and this was re-affirmed in its second consultation response.

6.5 Subsequent to the submission of the Appeal, Natural England has submitted a third consultation response (**Appendix RR15**). In relation to this, I comment as follows:

- (i) NE states that it did not comment on the original planning application. As documented above, this is patently incorrect and it is notable that it failed at any point to raise the concerns it now raises during the several months it took to determine the application;
- (ii) Mindful it was unaware of its earlier responses, NE now states that it considers that without appropriate mitigation the application would have a detrimental impact on priority habitats and species listed under Section 41 of the NERC Act. NE's response fails to identify:



- (a) What detrimental impacts it considers would arise and the effects that these impacts would cause; and
  - (b) Does not identify any specific priority habitats and species which is considers would be detrimentally impacted.
- (iii) I consider that this is a generic response not underpinned by any specific evidence and that very little weight can be afforded to it with respect to this Appeal. As illustrated in **Section 4** of my evidence full consideration of both Section 40 and 41 of the NERC act has been given with respect to the Appeal proposals;
- (iv) NE states that in order to mitigate the unidentified and undescribed adverse effects, that a management plan for Gavray Drive LWS would be required. Again, there is no reason or rationale given by NE about this requirement and I consider very little weight can be attributed to this requirement; and
- (v) NE refers to the Bernwood Focus Area. In preparing my evidence, I have failed to find any documentation relating to the delineation, rationale, remit or aims of this Focus Area. Natural England has provided no information regarding the Bernwood Focus Area and it appears to have no material legal or planning policy weight. It does appear to overlap with the River Ray CTA. As I have demonstrated at **Section 4** of my evidence, the proposals are fully consistent and complimentary with the aims of the CTA.
- 6.6 Overall, I consider that little (if any) weight can be attributed to Natural England's third consultation response.

### **Rule 6 Parties**

- 6.7 In preparing my evidence, I have considered the matters raised in the Statements of Case submitted by the following Rule 6 Parties (hereafter referred to collectively as "the Parties"):
- (i) Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust (BBOWT);
  - (ii) Butterfly Conservation (BC);

(iii) Save Gavray Meadows for Bicester (SGMB);

(iv) Campaign to Protect Rural England (CPRE); and

(v) Mr. Dominic Woodfield (DW).

6.8 In considering these Statements, I note that none of the Parties raise any technical objections to the ES (and Addendum) which inform this Appeal; including with respect to the baseline ecology information, the identification and valuation of IEFs or the proposed ecology strategy; other than it should include a provision for LEAMP which encompasses land allocated through Policy Bicester 13 but outside the Appeal Site.

6.9 I note that all the Parties, other than CPRE, accept Policy Bicester 13 and the need for an appropriate balance with respect to development and the protection and enhancement of ecological resources; focusing the allocated development on land with no significant and/or the least ecological constraint. It appears that CPRE would like to revisit the principle of development as it relates to what they consider to be Local Green Space; however, the principle of development (including that of Local Green Space) has been thoroughly considered during the examination of the now adopted Local Plan, including Policy Bicester 13.

6.10 In a number of the Statements, there is ambiguity in relation to what Parties mean when they refer to “the Site”. I have made my interpretations clear at **Section 1** of my evidence. What is clear is that (**Appendix RR1**):

(i) The LWS lies outside the Appeal Site;

(ii) The Appeal Site is only covered in part by the Ray CTA and that this part currently delivers negligible ecological value to the CTA;

(iii) All the additional species records provided by SGMB lie outside the Appeal Site and are therefore not directly pertinent to this Appeal; and

(iv) Contrary to the assertion of BC that “the Site” supports five butterfly Species of Principal Importance, the Appeal Site only supports one of these species while GDE supports all five.

6.11 Ultimately, I consider that the issues raised by the Parties can be condensed into three key issues, namely:

(i) The delivery of the allocated development through a single planning application rather than through separate applications for the Appeal Site and GDE;

(ii) The effect of recreational pressure on Gavray Drive Meadows LWS (which lies outside the Appeal Site); and

(iii) Delivering net gain in biodiversity.

6.12 I consider each of these as follows:

#### **Single vs. Separate Planning Applications**

6.13 I note that concerns are raised by the Parties that proposals for part development of the site allocated for development may either fail to meet the overall requirements of Policy Bicester 13 or potentially prejudice the ability to achieve the full requirements of the policy in due course. Mr. Keene deals with the matter of whether the policy expressly prohibits the allocated site being developed under a single or separate planning applications. As I have demonstrated in **Section 4** of my evidence, ecologically the Appeal Site can demonstrate full conformance with Policy Bicester 13 in its own right and no aspect of the Appeal Site, if the Appeal was allowed, would prejudice or preclude the remainder of the allocation (GDE) demonstrating its own conformance with Policy Bicester 13 when it comes forward.

6.14 Even DW, a long-standing objector to the development of Gavray Drive, appears to concede in his Statement that:

(i) It is not impossible for the allocation to be bought forward as separate allocations and that a single application would only "simplify" rather than prevent the process of testing the proposals for compliance with Policy Bicester 13; and that

(ii) A single application would provide "improved certainty" regarding the delivery of housing, including that allocated by Policy Bicester 13 (i.e. separate applications

provide “certainty”, but DW believes that certainty can be “improved” by a single application).

- 6.15 At this stage, no specific evidence to the contrary has been tabled by the Parties to demonstrate that the Appeal Proposals do not conform to the specific principles of Policy Bicester 13 in their own right or that the Proposals would prevent or preclude the remainder of the allocation being delivered in full, also consistent with the principles of the Policy, in its own right.
- 6.16 What is clear to me is that, a refusal of the Appeal Proposals will only further the detrimental and extensive effects of “do nothing” on the designated habitats within Policy Bicester 13. I have predicted and now witnessed these effects first hand since my initial involvement with the site in 2002 (as documented at **Section 1** of my evidence). In my opinion, allowing the Appeal would give certainty regarding the delivery of the Appeal Site (including its ecological benefits) and, based on this certainty, will trigger a separate planning application to be brought forward promptly for the remainder of the allocated site (GDE); including the significant ecological benefits that it will deliver consistent with Policy Bicester 13.

### **Recreational Impacts on Gavray Drive Meadows LWS**

- 6.17 The ES (and Addendum) considers the recreational impacts of the appeal proposals on the LWS. Contrary to the erroneous statement made in DW’s Statement (Para. 3.5), notwithstanding that it has to be expected that people will respect and abide by property laws and not trespass, no significant residual adverse effects on the LWS are anticipated. As documented at **Sections 2** and **3** of my evidence, a level of recreational impact is accepted but in the context of the current trespass evident within the LWS and the measures proposed, this additional effect is not considered significant.

### **Delivering Net Gain**

- 6.18 Most of the Parties comment on the ability of the proposals to deliver net gain in biodiversity.

- 6.19 In considering delivering net gain in biodiversity, I have considered this both qualitatively and quantitatively; the latter at the request of CDC and in accordance with the method which they requested to be used.
- 6.20 Even prior to completing a quantitative assessment using the BIA metric described at **Section 3** of my evidence, it was my professional opinion that the Appeal Site was capable of delivering a net gain in biodiversity. In simple terms, the Appeal Site supports habitat of negligible ecological value and the proposed development will deliver significant enhancements in this context. The completion of the BIA metrics supports my qualitative assessment, but is not dependent on it. It is also notable that all the land within the Appeal Site covered by the CTA designation is included as greenspace which will ensure that all this land delivers enhancement compared to its current negligible ecological value. The final design of the greenspace will be determined through the Reserved Matters process and therefore the delivery of net gain will be secured in detail through this process.

## Section 7

### Summary and Conclusions

- 7.1 As I have demonstrated in **Sections 2** and **3** of my evidence, the Appeal Site has been subject to extensive ecological investigations which have revealed that the Appeal Site in its own right has few ecological constraints to its development. I have also demonstrated that a robust ecological strategy is proposed which is capable of securing net gain in biodiversity within the Appeal Site. I also demonstrate that the Appeal proposals, subject to the application of suitable conditions and obligations, can have no significant adverse residual effects on ecological resources; including pertinent off-site resources such as the Local Wildlife Site.
- 7.2 Contrary to the first reason for refusal, I have demonstrated that the Appeal Site is in full conformance with all relevant legislation and planning policy including Policy Bicester 13, ESD10 and ESD11 of the adopted Local Plan. I have also demonstrated that, in the event that the Appeal is allowed, that the proposals will not prejudice in any way the delivery of the remainder of the allocated development or its ability in its own right to conform with the same policies.
- 7.3 I consider that ecologically it is appropriate to maximise the quantum of development within the Appeal Site since it is of negligible value compared to the remainder of the allocation and will minimise the quantum of development necessary to be delivered on the remainder of the allocated site (GDE).
- 7.4 In relation to recreational pressure, I consider that the Appeal Proposals could contribute to existing trespass pressures on the LWS, however, this contribution is not considered significant in the context of the existing pressures and measures proposed.
- 7.5 I demonstrate in my evidence that the Appeal proposals are qualitatively and quantitatively capable of delivering a gain in biodiversity and do not preclude the remainder of the allocated development delivering a potentially significant gain in its own right once it is bought forward for planning consent.
- 7.6 In conclusion, I consider that the Appeal proposals are ecologically sound both technically and with respect to legislation and planning policy, will deliver net biodiversity gain, will not

prejudice of preclude the delivery of the remainder of the allocated development being consistent with relevant planning policy in its own right and will enable the remainder of the allocated development to come forward promptly for approval. I therefore respectfully request that this Appeal is allowed.