1. Introduction

1.1 This is the statement of case of the Rule 6 Party, CK Friends, to the appeal (PINS REF: APP/B1605/W/20/3261154) relating to land adjacent to Oakhurst Rise, Cheltenham GL52 6NR (the Site)

1.2 CK Friends are a residents' group comprising local residents, members of the school community, and an extensive social media network of supporters.

1.3 CK Friends were represented at the August 2019 appeal by counsel (Leon Glenister, Landmark Chambers). Witnesses were provided on ecology and heritage. It is beyond the means of residents, particularly in a time such as this, to fund two appeals in less than 18 months, hence the request for self-representation at this appeal.

1.4 From the outset, development of this site was constrained by:

- The boundaries with two listed assets, one Grade II*, and one Grade II
- Ecological features including:
    - grassland meeting the biodiversity criteria to qualify as a local wildlife site,
    - important hedgerow
    - an extensive group of long established badger setts,
    - a range of mature and veteran trees,
    - a central ice house, around which Gloucestershire primary school cross country racing has run for over 60 years
- A "tortuous" access and a local transport network already over capacity
- Springs across the site, impermeable soils and steep gradients

1.5 HD4 was adopted as part of the Local Plan in July 2020 (post dating this application being made), with site specific requirements.

1.6 The Gloucestershire Wildlife Trust (GWT) designated the site as Cheltenham's 6th Local Wildlife Site in September 2020 following review by an expert panel.

1.7 CK Friends have raised consistent objections to these applications, including contesting baseline data that has been changed multiple times.

1.8 Expert advice has been provided as follows:

Trees: Barton Hyett Associates (the Woodland Trust and the Ancient Tree Forum maintain their objection)

Ecology: Bioscan (principal ecologist, Sam Watson, MCIEEM), supported by the school community and county recorders for species identification (the Badger Trust also maintain their objection)

Heritage: Dr Nicholas Doggett of Asset Heritage Consulting (FSA, MCIfA, IHBC), (Historic England also maintain their objection)

Flooding: Cheltenham Flood and Drainage Panel

Transport: a local resident highways engineer

1.9 CK Friends object to the impact and scale of this development. They did not object to the quantum of 25 homes in the local plan but note the very recent Local Wildlife Site designation will potentially constrain development further. The principle of residential development of the site is not disputed. In brief the issues are,

i. Impact on the setting of nearby listed buildings
ii. Failure to adequately address the constraints and site specific requirements set out within the adopted Cheltenham Plan policy HD4
iii. Ecology impacts on legally protected species, including a large badger population and their setts, and the loss of valuable grassland habitat

2. Background History

2.1 In December 2016 residents were notified of an intention by William Morrison to develop land known locally as St Edward's School meadow, and in planning documents as 'land off Oakhurst Rise'. A single public engagement was held.

2.2 The first application was submitted with a few hundred pages of documents to review. After about a month reports were superseded. And just before committee, a third, even fourth raft of reports was produced. On some issues, such as on ecology, there have been more than 5 revisions of core documents per application. This has now happened three times, in addition to supplementary material generated for each appeal. The civic society [1]have independently evaluated the issues associated with this approach, which runs counter to plan led design.

2.3 The council's planning department supported the first application for 90 homes (17/00710/OUT). Errors highlighted by residents included an old oak tree under TPO, listed as a crab apple for felling. The planning committee rejected the application.

2.4 The council's planning department supported the second application for 69 (later reduced to 68 homes), 18/02171/OUT. The planning committee rejected the application.

2.5 An appeal was held in August 2019. Weeks before the appeal a first reptile survey was done (July 2019) identifying the presence of grass snake and slow worm; the application stated that the site was unsuitable for reptiles. Inspector Sims visited the site, Oakhurst Rise and the two listed properties, and heard 4 days of evidence. The appeal was rejected.

2.6 Six months after the appeal inspector's report was produced a new application was submitted for 43 homes. Councillors were engaged to prevent the application being determined under delegated lockdown powers. In parallel, Gloucestershire Wildlife Trust (GWT) was presented, in June 2020, with the evidence that the site met the criteria for

[1] Report published June 2020; submitted under separate cover

consideration as a grassland local wildlife site (LWS), against Key Wildlife Site for Gloucestershire criteria "H5.2: areas of semi-natural grassland larger than 0.5 hectares which support more than 20 species from table H5c").[2] In August 2020, the appellant's ecology advisers submitted evidence as to why the grassland could not qualify as an LWS.

2.7 In September 2020 GWT approved the site through their panel of experts, as a designated local wildlife site (making it the sixth in the Cheltenham borough).

2.8 The council's planning department supported the third application.

2.9 The committee met soon afterwards. At that zoom facilitated hearing, there was no discussion of heritage issues. Councillor Baker asked how safe pedestrian and cycle access would be achieved but no response was provided. There was discussion, without any answers, as to how to reconcile a badger sett being in close proximity to a listed building. There was incredulity at some of the input, most notably that on transport. Councillors voted to refuse the application. As previously, discussion of reasons for refusal was taken out of committee.

2.10 No public consultation occurred before either the second or the third applications.

2.11 Separately, evidence gathering for the local plan concluded in February 2019. The local plan inspector was invited to visit Ashley Manor (Grade II* listed) and Charlton Manor (grade II listed) as part of the review of heritage impact from site HD4, but chose not to do so. The main modifications (MMs) for HD4 were issued after the appeal hearing. Despite representation based on the appeal findings, no changes to the MMs were accepted.

2.12 The local plan inspector issued her final report just one month prior to the submission of this application for 43 houses.

2.13 Residents had to respond to the local plan and the new application simultaneously, so sought (and obtained) confirmation from CBC[3] that new material facts relevant to HD4 would be considered as part of any planning application, rather than as a review of the local plan policy. Even with those assurances, some Charlton Kings councillors voted against the adoption of the whole plan, due to concerns that HD4 was already out of date.

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[2] Gloucestershire Key Wildlife Sites Handbook Part 2 v4.5

[3] CBC full council record July 2020: "any new material considerations relating to an allocated site would be considered as part of any decision on a planning application on that site."

3. The Rule 6 case

3.1 CK Friends will support and where necessary augment CBC's case on heritage grounds, but will also resist the appeal on ecological grounds and on the basis of non-compliance with Local Plan policy HD4.

Heritage: Harm to two heritage assets, particularly the setting of Ashley Manor, an important Grade II* listed villa, but also of Charlton Manor, the first house built on the Battledown Estate in 1864, and grade II listed.

3.2 The rule 6 party will base their case on the written statement provided by Dr Nicholas Doggett of Asset Heritage Consulting (dated December 2020), namely that the appeal proposals remain highly damaging to the significance of the settings of Ashley Manor and Charlton Manor, and are of such a scale that the harm they would cause is sufficient to outweigh any 'public benefits' that the appellants will no doubt claim. Supporting documentation includes the representation of Ashley Manor's setting, as seen from the driveway circa 1840.

3.3 CK Friends do not accept the position agreed in the statement of common ground between CBC and the appellant with regard to the term 'development' in HD4. The policy states that there shall be no development south of a line on the site closest to the Grade II* asset, Ashley Manor; development includes engineering operations and earthworks, including the installation of flood infrastructure. The local plan inspector's final report[4] (appendix 3) stated that "MM016 provides for a restriction to the area of the site to ensure that new development does not impact on the setting of adjacent listed buildings".

Ecology: Failure to follow Avoid – Mitigate – Compensate hierarchy; loss of biodiversity assets.

3.4 As stated in the 2019 appeal, the approach to ecology on the Site falls starkly short of Joint Core Strategy (2017) policy SD9 and the local plan requirements. Planning policy guidance on biodiversity requires consideration of appropriate local wildlife knowledge. This is not a nationally or internationally protected site, but it supports a rich diversity of legally protected and regionally uncommon species, as well as a range of more common species uniquely co-located in a location that is easily accessible to school children across 10 acres. Residents will demonstrate that their contributions on ecology (including documentation of legally protected species) have been marginalised, and the status of the site as a local wildlife site was strongly resisted until two weeks before the planning committee met, negating any claims of 'avoid- mitigate – compensate' hierarchies being followed.

3.5 Friends accept that it could be possible to improve the biodiversity of the retained grassland, but also will provide evidence (including the government recommended Defra biodiversity metric results from Bioscan) that biodiversity net loss would arise from the current application. In addition CK Friends will submit that the site has been neglected in the four years since development applications started. Claims of potential future

[4] Report on the Examination of the Cheltenham Plan, PINS/B1605/429/2 of 17 March 2020

biodiversity net gain from development have been inflated through systemic reduction in grassland maintenance.

3.6 Policy HD4 requires the protection of biodiversity assets, and CK Friends will submit that the loss of 57% of grassland (according to the county ecologist), 23% of important hedgerow and some mature trees is counter to HD4, the direction within the Cheltenham Local Plan on biodiversity and local wildlife site protection, as well as policy SD9.

3.7 CK Friends will demonstrate that the proposed badger sett relocation is in conflict with other requirements within the application and cannot be policy compliant.

Non-Compliance with HD4: Failure to meet the site specific criteria

3.8 CK Friends will highlight the gaps between the local plan specific policies assigned to site HD4, and this application, focusing on deficiencies in:

- safe access for cyclists
- protection of mature trees
- development (using the definition as applied within Section 55 of the 1990 Town and Country Planning Act) within the 'no development zone' stipulated to protect Ashley Manor
- insertion of an artificial badger sett within the 'landscape buffer' allocated to Charlton Manor (in a way that is in contravention of Natural England best practice guidance and brings the badgers into conflict with a spring, with the grassland management proposed to secure biodiversity gains, and with a listed building)
- protection for existing biodiversity assets

3.9 Residents continue to represent their local experience of deficiencies in transport and flood infrastructure in the area. At the last appeal no witnesses were called but the inspector acknowledged the value of these contributions. It is likely that residents will wish to make their views known once more.

3.10 CKF accept the importance of Cheltenham's five year housing supply shortfall, although it was also cited as a reason to support development as far back as the failed appeal 38 years ago. CKF note that, despite the impact of lockdown on construction, a number of affordable housing compliant applications close to this site will alleviate the pressure significantly; Bouncers Lane, 1 mile away (49 homes), Oakley Farm Pastures, half a mile away (with committee, 250 homes), Shurdington Road, (350 homes) and north west Cheltenham (840 homes on land released from greenbelt).

4. List of documents

4.1 In addition to the documents already associated with the appeal, and material referred to in this statement of case, CK Friends reserve the right to make reference to other information and material when preparing its evidence, including relevant appeal decisions.

4.2 CK Friends reserves the same right as the Appeal progresses, in so far as the documents and material are necessary to deal with matters that may arise.

4.3 CK Friends will work with the parties to create a core bundle of documents.

5. Witnesses

5.1 As would be expected given self-representation, no professional witnesses will be called. Expert evidence will be via written statement with verbal evidence from the CK Friends spokeswoman. Permission will be sought to explore any issues with proofs of evidence, as appropriate.

5.2 Sally Walker MA(Cantab) Hons (Natural Sciences) will present all CK Friends evidence. Sally was a senior civil servant for 16 years and is a national security policy specialist practiced in advising ministers. She has lived next to the site for 12 years, is a St Edwards school parent and runs the Charlton Kings wildlife and habitats group that supports Gloucestershire Wildlife Trust in species recording across Charlton Kings.

6. Documentation

6.1 Excerpts, drawings and photographs have been attached as appendices.

Appendix 1: transcript of the transport comments at planning committee, Sept 2020

Appendix 2: etching of Ashley Manor, original on display at St Edwards school

Appendix 3: local plan inspector's final report

Appendix 4: photographic timestamps of the grassland and its use

Appendix 5: badger sett marked up with Natural England recommended exclusion zones

Appendix 6: selection of email correspondence with county moth recorder

Appendix 7: excerpts of Natural England guidance on biodiversity

Appendix 8: excerpts of JCS policy SD9

Appendix 9: excerpts of Cheltenham local plan

Appendix 10: excerpts of appeal decision

Plus the following. Documents not available through the planning portal* have been sent separately (electronically)

Heritage

- Peter Bell, AHC, proof of evidence to APP/B1605/W/19/3227293
- *Dr. Nicholas Doggett, Asset Heritage Consulting, report December 2020

Consultation and engagement

- *Civic society report on planning process 2020
- Aspect response to CK Friends consultation comment on ecology dated 12 June 2020

Ecology

- PPG on Natural Environment (21 January 2016)
- County ecologist report, 18/02171/OUT 12 Dec 2018 (none found for 2017 application)
- Aspect ecology report on 18/02171/OUT
- Aspect proof of evidence for appeal dated July 2019
- Aspect Technical Briefing note TN8
- *Aspect Technical Briefing Note TN11 dated 17 August 2020
- Badger Trust consultation unreferenced posted CBC portal 7 Sept 2020 as appendix 7
- Bioscan SW20/E1986/EPL1 dated 29.7.20 posted 1 December 2020 on CBC portal
- Bioscan letter SW20/E1986/EPL2 dated 11th Sept 2020
- *GWT letter dated 7 July 2020

- Map of relocated badger sett including 30m exclusion zones
- Gloucestershire County Ecology Records, biodiversity record for the site
- Natural England guidance on protected species
- Email correspondence, Bioscan and county moth recorder, July 2019
- Sam Watson proof of evidence to APP/B1605/W/19/3227293
- *Natural England guidance on Badger licences

Appendix 1

Transport evidence at planning committee, September 2020

58”30’: Highways Officer [Mr Stephen Hawley, Development Management Team Leader at Gloucestershire County Council] was asked by the Chairman if he would like to comment. Mr Hawley said :

"Er, certainly, Chairman. Umm, yes, it is obviously true that it [*the access*] has been described as tortuous but tortuous does not make it unacceptable. In fact actually tortuous actually has some advantages [*laughter*] ..... we find the motorists react differently, vehicle speeds are reduced and actually having a less conducive environment for motorists can actually make a more safer (*sic*) environment for pedestrians and cyclists. Clearly the inspector has questioned that point but it didn't go far enough to be worthy of a reason to refuse it. "

Appendix 2: early 19th century etching of Ashley Manor, depicting the Manor House, the Ice House, and the Site as seen from the drive approaching the Manor. On display in the School.

56. For the residential development allocations, site specific requirements to deal with flood risk issues are added to Policies HD7, and MD4. Requirements relating to biodiversity, landscape setting and heritage environment issues are also included within Policies HD3, HD4, HD7, and HD8. [**MMs 015 – 018, MM023**] These MMs are necessary to ensure that the site allocations have been positively prepared and will be deliverable.
57. Policy HD4 provides for some 25 dwellings on land at Oakhurst Rise. **MM016** provides for a restriction to the area of the site to ensure that new development does not impact on the setting of adjacent listed buildings. A recent appeal decision for some 68 dwellings was found, among other issues, to materially alter the character and appearance of the site harmful to the setting of the listed buildings and to result in a loss of protected trees. The appeal was dismissed.
58. An allocation for some 25 dwellings would considerably reduce the potential for the harmful impacts which were identified in the appeal scheme. A more modest development would enable the interrelationships between the listed buildings, the site and the Ice House to be better addressed and to avoid any harmful impact on the setting of the listed buildings. It would also enable the retention of important trees within the site, and I have made a minor change to the wording of modified Policy HD4 to require the protection of mature trees. In view of the location of the site within the built-up area and the need for residential development within Cheltenham, I find that with an appropriate layout and form of development the issues raised as part of the appeal scheme could be satisfactorily addressed and the allocation is sound

Appendix 4: a decade of the field

2010: walking to the Kindergarten through the hay meadow

2020: helping produce the school's honey (the bee hives, located in the centre of the site, were removed in June 2020)

Appendix 5: Badger sett location with Natural England 30m buffer zones marked up and 1.8m deer fencing added from enclosures documentation for the application

Grade II listed stable block within 20m of sett

Black line = 1.8m deer fencing (Additional plan, methods of enclosure, 2 july 2020)

Scale best endeavours without professional mapping software; indicative only and presuming that:

- The setts under the ice house would be retained
- The new sett would be a minimum of 25m2, with at least 3 entrances
- An area of 20m by 20m would be required to support the creation of the artificial sett (grey box)
- Relocation of the site further into the grassland would diminish the grassland areas that are 'retained', further adding to biodiversity loss and LWS impact. The alternative site in the south west corner has already been considered and rejected
- Natural England guidance of 30m exclusion zones are from sett entrance, for machinery or building work. Licences are legally required within those zones (e.g. restricting the area of grass that can be cut around the current setts)
- Badger foraging and deer fencing are mutually exclusive design features

No account has been taken of best practice guidance that requires the artificial sett to promote natural extension of the badgers' underground habitat and assumes new, natural entrances will arise over time, occupying a much greater territory.

Appendix 6: Email Correspondence with the County Moth Recorder

Subject: Re: Chimney Sweeper moth
From: R Homan [redacted] Date: 17/07/2019, 12:35
To: Sam Watson [redacted]

Hello

Thanks for the Chimney Sweeper record. That is an interesting and rather neglected area of Cheltenham. The lower slopes of Prestbury Hill and above Battledown have many small, low input fields which probably suit the moth. On a more general note, it isn't strictly the first record for Cheltenham Borough as it was recorded at Benhall in 1975, and in the Hewletts square (SO9822) in 1968. There have been very few records for the vice-county in the last few years, although it has been numerous on Prestbury Hill this year. I suspect it is a species that is a good indicator of local environmental quality

Regards

Robert

Robert Homan

From: Sam Watson [redacted]
Sent: Tuesday, July 16, 2019 11:10:52 AM
To: [redacted]

Good Morning,

I am ecologist working on behalf of a local residents ground in relation to a proposed development in Cheltenham Borough. During our visit to the site we no□ced that the site supports a very healthy population of Chimney Sweeper moth, with pignut widespread if perhaps not abundant in the sward. The grid ref for the centre of the site is SO 96530 21596.

I've had a look on the Gloucestershire Moths distribution maps webpage and it seems that this species has not been recorded from Cheltenham Borough before - would that be correct?

Many thanks. --

Regards

Samuel Watson MCIEEM
Principal Ecologist
FOR AND ON BEHALF OF BIOSCAN (UK) LTD

County Moth Recorder: R Holman Email to Sally Walker 17 May 2020

The burnet caterpillar is Narrow-bordered Five-spot (note the long hairs on the body, the other 2 Glos. species have short hairs.

The micro-moth is Glyphipterix fuscoviridella. The larvae feed on field wood-rush. The moth has been recorded in the past on Prestbury/Cleeve Hill, but not in Charlton Kings.

The burnet is a little more widespread in Cheltenham, especially on grassland sites in the east.

Which side of Battledown Approach road is the relevant bit of the playing field?

Regards

Robert

County Moth Recorder: R Holman Email to Sally Ward 17 June 2020

I have got in a muddle with your two most recent burnet records. One has been redetermined as 6-spot. There is a comment added to that record, which should apply to the other iRecord.
The other one is particularly interesting and I would like to show your picture (duly acknowledged) to others with an interest in moths. It is a 5-spot Burnet with confluent spots (a genetic variation). Furthermore, the spots are remarkably pale; this is either due to wear, or it is a very rare colour form.

Apologies for the confusion

Regards

Robert Homan

County Moth Recorder: R Holman Email to Sally Ward 19 June 2020

The consensus of opinion is that your burnet is a worn Five-spot with confluent spots. This form occurs on Prestbury Hill.
Five-spot is by far the rarer of the 3 Gloucestershire species.

Regards

Robert

Robert Homan

Appendix 7: www.gov.uk planning guidance: Natural Environment, 21 Jan 2016

How can biodiversity net gain be achieved?

Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra biodiversity metric can be used to assess whether a biodiversity net gain outcome is expected to be achieved. Planning authorities need to make sure that any evidence and rationale supplied by applicants are supported by the appropriate scientific expertise and local wildlife knowledge.

Paragraph: 023 Reference ID: 8-023-20190721

How can plan-making bodies identify and safeguard Local Wildlife Sites and Local Geological Sites?

Locally designated 'Local Wildlife Sites' and 'Local Geological Sites' are areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery. They can also provide wider benefits including public access (where agreed), climate mitigation and helping to tackle air pollution. They can be in in rural, urban or coastal locations, can vary considerably in size, and may comprise a number of separate sites.

National planning policy expects plans to identify and map these sites, and to include policies that not only secure their protection from harm or loss but also help to enhance them and their connection to wider ecological networks.

Local planning authorities can take a lead in establishing and maintaining partnerships and systems to identify, manage, enhance and safeguard local sites. The positive engagement and co-operation of land owners and their representative bodies can contribute significantly to the success of these partnerships.

All local sites partnerships need to use clear and locally defined site selection criteria with measurable thresholds. For example, where a particular habitat is especially scarce, it may be appropriate to adopt a lower threshold for selection than would be appropriate for other natural areas so that a suitable range of sites is protected. Selection criteria need to be developed with reference to the standard criteria in the following question, with all sites that meet the relevant criteria (informed by detailed ecological surveys and expertise) then being selected.

Paragraph: 013 Reference ID: 8-013-20190721

Avoidance

Can significant harm to wildlife species and habitats be avoided; for example by locating on an alternative site with less harmful impacts?

Mitigation

Where significant harm cannot be wholly or partially avoided, can it be minimised by design or by the use of effective mitigation measures that can be secured by, for example, conditions or planning obligations?

Compensation

Where, despite mitigation, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent or greater value of biodiversity?

Where a development cannot satisfy the requirements of the 'mitigation hierarchy', planning permission should be refused as indicated in paragraph 175 of the National Planning Policy Framework.

Paragraph: 019 Reference ID: 8-019-20190721

How does biodiversity net gain fit with the mitigation hierarchy?

Biodiversity net gain complements and works with the biodiversity mitigation hierarchy set out in NPPF paragraph 175a. It does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Local planning authorities need to ensure that habitat improvement will be a genuine additional benefit, and go further than measures already required to implement a compensation strategy.

Paragraph: 024 Reference ID: 8-024-20190721

How can biodiversity net gain be calculated?

Using a metric is a pragmatic way to calculate the impact of a development and the net gain that can be achieved.

The biodiversity metric can be used to demonstrate whether or not biodiversity net gain will be achieved. It enables calculation of losses and gains by assessing habitat:

- distinctiveness: whether the type of habitat is of high, medium or low value to wildlife.
- condition: whether the habitat is a good example of its type.
- extent: the area that the habitat occupies.

The information needed to populate this metric is taken from habitat surveys of the site before development and any related habitat clearance or management, and for the habitats proposed within the development as well as any additional habitat improvement off-site. The metric translates habitat distinctiveness, condition and extent into a score which is presented in biodiversity units. It also uses multipliers to account for risks in delivering

habitat creation or enhancement. To achieve net gain, a development must have a sufficiently higher biodiversity unit score after development than before development.

Paragraph: 025 Reference ID: 8-025-20190721

What is the baseline for assessing biodiversity net gain?

The existing biodiversity value of a development site will need to be assessed at the point that planning permission is applied for. It may also be relevant to consider whether any deliberate harm to this biodiversity value has taken place in the recent past, and if so whether there are grounds for this to be discounted in assessing the underlying value of the site (and so whether a proposal would achieve a genuine gain).

Paragraph: 026 Reference ID: 8-026-20190721

Appendix 8:

Policy SD9: Biodiversity and Geodiversity [Excerpts]

The biodiversity and geological resource of the JCS area will be protected and enhanced in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interests.

This will be achieved by:

Ensuring that European Protected Species and National Protected Species are safeguarded in accordance with the law
Conserving and enhancing biodiversity and geodiversity on internationally, nationally and locally designated sites, and other assets of demonstrable value where these make a contribution to the wider network, thus ensuring that new development both within and surrounding such sites has no unacceptable adverse impacts

Encouraging new development to contribute positively to biodiversity and geodiversity whilst linking with wider networks of green infrastructure. For example, by incorporating habitat features into the design to assist in the creation and enhancement of wildlife corridors and ecological stepping stones between sites Encouraging the creation, restoration and beneficial management of priority landscapes, priority habitats and populations of priority species. For example, by securing improvements to Strategic Nature Areas (as set out on the Gloucestershire Nature Map) and Nature Improvement Areas.

Development within locally-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated.

Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the local planning authority. If harm cannot be mitigated on- site then, exceptionally, compensatory enhancements off-site may be acceptable.

4.11.12 The JCS requires developers to avoid harm to biodiversity or, where this is not possible, to incorporate mitigation measures into the design of developments. Developers should also ensure that development outside designated sites will not cause reasonably foreseeable harm to those sites, and if such an effect is likely, should mitigate against it. For situations where measures cannot be provided on-site, the local authorities may in certain circumstances consider a system of ‘biodiversity offsetting’. In addressing the impacts of potential developments on geodiversity, it is intended that the councils will follow a similar approach to that proposed for biodiversity, based on avoidance, on-site mitigation and off- site compensation (for example, by improving the exposure of the geological feature).

Appendix 9: **Local Plan excerpts**

POLICY D3: PRIVATE GREEN SPACE

The development of private green areas, private open spaces and private gardens which make a significant contribution to the townscape and environmental quality of Cheltenham will not be permitted.

Proposals for development within extensive grounds of large properties will need to take account of the scale and location of existing buildings within or adjacent to the site, the main features of the site itself, and where appropriate, will be required to:

1. a) retain mature trees;
2. b) retain and enhance existing landscaping;
3. c) provide new landscaping;
4. d) avoid disturbance of significant habitats.

10.BIODIVERSITY AND GEODIVERSITY

This chapter should be read in conjunction with the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, specifically policy SD9: Biodiversity and Geodiversity

10.5. The Joint Core Strategy (JCS) recognises the need to protect and conserve wildlife and habitats. JCS Policy SD9 highlights the importance of protecting sites from development that would have a harmful effect on their nature conservation and biodiversity interests. This policy takes into account all sites with conservation interest, including international, national and locally- designated sites, as well as non-designated sites and assets.

10.6. One of the essential tools in helping to inform planning decisions on biodiversity is the Gloucestershire Nature Map. This is a comprehensive resource compiled by the Gloucestershire Biodiversity Partnership as part of the UK Biodiversity Framework (2012) and represents an assessment of biodiversity opportunities for the county. The identified tracts of land, called Strategic Nature Areas (SNAs), show the prioritised areas for the maintenance and expansion (through restoration and/or re-creation) of Priority Habitat (Section 41 of the NERC Act 2006) at a landscape scale across Gloucestershire. This biodiversity enhancement map is a spatial representation of the county's targets for Priority Habitat and embodies a 50-year vision which will allow biodiversity to adapt to climate change and help secure healthy functioning ecosystems.

10.7. The Gloucestershire Nature Map points to the areas of greatest potential for restoration and creation of Priority Habitat with a view to establishing ecological networks that support healthy functioning ecosystems. The Map is based on the inclusion of existing areas of identified wildlife value but does not include all designated or local sites of importance for wildlife, or landscape or built features of importance for flora and fauna, or Priority Habitat in the county. SNAs also do not include all the areas where priority habitat could exist. They simply identify where there is the best opportunity to build coherent and

resilient ecological networks without implying that areas outside these designations have no biodiversity or that biodiversity should not be conserved and enhanced there.

LEGALLY PROTECTED SPECIES

10.11. The *Countryside and Rights of Way Act 2000* and the *Conservation (Natural Habitats &c.) Regulations 1994* legally protect certain species and their habitats. Other species are protected under their own legislation, for example the *Protection of Badgers Act 1992*. Of particular relevance to Cheltenham are the habitats of the barn owl, badger and bat. This list is not exhaustive and other habitats may also be relevant.

10.12. It is recognised that many legally protected species may be found outside designated sites and consequently require special attention wherever they exist. Where protected species are known or suspected to exist, the applicant will be expected to supply information detailing how the development will affect the protected species and what measures will be undertaken to mitigate the impact of the development on the species.

10.13. In accordance with JCS Policy SD9, the presence of a protected species is a material consideration in the determination of a planning application. Where protected species are known or suspected to exist, applicants will be required, at the time of the application, to provide appropriate survey/mitigation information to determine the likely effect of the proposed development. The Borough Council will seek the advice of Natural England and Gloucestershire Wildlife Trust (GWT) to determine whether the requirements of legally protected species and their habitat have been adequately taken into account.

DESIGNATED LOCAL NATURE CONSERVATION SITES AND OTHER ASSETS OF DEMONSTRABLE VALUE TO BE

CONSERVED AND ENHANCED UNDER JCS POLICY SD9 (II) (NOT AN EXHAUSTIVE LIST)

LOCAL WILDLIFE SITES

10.16. GWT has compiled a schedule of 850 local wildlife sites. These sites are designated for their nature conservation value, which is of countywide significance. Cheltenham Borough contains five* of these. Such sites are considered to contain features of countywide importance, either through their rarity or the fact that they are typical to Gloucestershire and seldom found elsewhere.

*note – now six

Table 2: Land allocated for Housing Development (page 47)

Residential Development

Reference	Location	Designation
HD1	Christ College Site B	70 dwellings
HD2	Former Monkscroft Primary School	60 dwellings
HD3	Bouncer's Lane	20 dwellings
HD4	Land off Oakhurst Rise	25 dwellings
HD5	Land at Stone Crescent	13 dwellings
HD6	Brockhampton Lane	17 dwellings
HD7	Priors Farm Fields	50-90 dwellings
HD8	Old Gloucester Road	175 dwellings
HD9	North Place and Portland Street	143 dwellings

Appendix 10: Excerpts from Appeal Decision APP/B1605/W/19/3227293

55. It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have not been identified as such in the assessment submitted by the arboricultural consultants to the Appellants, including Tree 3014.
56. That assessment is based upon the in-house identification system of the consultants, known as RAVEN[2]. Criticism is based upon the Ancient Tree Inventory of the Ancient Tree Forum and Natural England standing advice for ancient woodland. It turns, in part, on alleged over-reliance by RAVEN, upon the mere size of the tree in assessing its veteran or ancient status.
57. However, it is apparent that the assessment covered all the trees on the site in light of the applicable definition of veteran and ancient trees in the Glossary of the Framework, in terms of age and condition, as well as size, in relation to biodiversity, cultural or heritage value. Furthermore, many trees referenced by the Woodland Trust are retained in the proposal now at appeal.
58. The scheme as a whole, and its measures to protect existing trees in particular, must be considered primarily in relation to the policies of the development plan and the Framework and a realistic assessment of its impacts. I therefore consider it appropriate to proceed on the basis of the agreement between the main parties that the veteran and other trees for retention on the site have been properly identified. The question to be addressed is whether the trees proposed to be retained in the development would be protected effectively.

63. On balance overall, I am satisfied that the measures proposed to safeguard the long-term welfare of all the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. However, that cannot be certain. I am persuaded that there would remain some degree of risk to the longevity of the trees concerned, given the relative degree of density of those parts of the proposed development closest to those concerned, leading to greater public access and activity in close proximity.
64. To that extent, with respect to the retained protected and veteran trees, I find the proposed development to be in some conflict with Policies GE6, GE5 and INF3. This potential harm counts in some measure against the approval of the scheme. The degree to which this conflict will affect the overall planning balance will depend on whether a development of the layout and density proposed is acceptable in terms other planning effects.

94. In response to local concern, the Appellants undertook a reptile survey shortly before the Inquiry. This, visual observation and local information provides little evidence of the presence of protected reptiles, other than a family of slowworms and a single grass snake.

95. The survey is criticised by CKF in terms of its seasonal timing, the hours and number of survey visits made and the size of the 'refugia' used to attract and count any reptiles present. The Appellants pointed out that a greater number of smaller 'refugia' were used to increase the likely count and that the number of visits accorded with accepted practice. At the same time, the Appellants agreed, at the Inquiry, that the timing of the survey had been

sub-optimal in comparison with established guidance. However, there is no countervailing evidence to indicate a greater presence of reptiles on the site.

96. It is further evident that only 14 key wildlife species have been recorded on the site, compared with the 20 required for its consideration of a Key Wildlife Site.

97. On balance, I do not consider it likely that protected reptiles are present on the appeal site to justify objection to the amended outline scheme on grounds of harm to such species. I consider that it would be sufficient to require, by planning condition, a full ecological survey and assessment to be submitted, with measures for the protection and management of any protected species found, and its submission to the Council for approval before any development could commence.

106. However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and might be at least assisted by the provision of an additional turning head proposed within the site. However, it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.

107. Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.

ASSET HERITAGE CONSULTING

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HERITAGE STATEMENT

In respect of

OUTLINE APPLICATION PROPOSALS FOR 43 DWELLINGS ON LAND AT OAKHURST RISE, CHELTENHAM

LPA REF: 20/00683/OUT

PINS REF: APP/B1605/W/20/3261154

On behalf of

Charlton Kings Friends (CKF)

AHC REF: ND/9686

December 2020

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Asset Heritage Consulting Ltd. Registration No: 07502061

CONTENTS

1.0 INTRODUCTION AND SCOPE OF REPORT

1.1 The purpose of this report, which has been prepared and written by Dr. Nicholas Doggett, FSA, MICfA, IHBC, Managing Director of Asset Heritage Consulting Ltd., on behalf of Charlton Kings Friends (CKF), who are registered as a Rule 6 party for the forthcoming public inquiry, is to provide an analysis of the impact of the outline development proposals for 43 dwellings on land at Oakhurst Rise (hereafter 'the appeal proposals') on the significance of the settings of the adjoining Grade II* listed Ashley Manor and the Grade II listed Charlton Manor.

1.2 A previous proposal, by the same applicants/appellants, for up to 68 dwellings was dismissed on appeal after a four-day public inquiry in August 2019 by letter dated 20 September 2019.

1.3 The adverse impact on the significance of the settings of Ashley Manor and Charlton Manor was key to this dismissal and this issue is also central to the new appeal, the Council's refusal reason (dated 17 September 2020) on the application reading as follows: '*The proposed development would have a significant impact on the setting of nearby listed buildings. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance. Policy HD 4 of the Adopted Cheltenham Plan suggests a minimum of 25 dwellings can be accommodated on this site subject to a list of criteria. The proposal for 43 dwellings against the policy requirement of 25 has led to a layout which does not respect the character, significance and setting of heritage assets. The proposal is therefore in conflict with Policy HD4 of the adopted Cheltenham Plan. The development would also be in conflict with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019)*'.

1.4 It is my professional opinion (my qualifications and experience are set out at **Appendix 1**), that the appeal proposals remain highly damaging to the significance of the settings of Ashley Manor and Charlton Manor and are of such a scale that the

harm they would cause is sufficient to outweigh any 'public benefits' that the appellants will no doubt claim would flow from them.

1.5 As such, I respectfully urge the Inspector to dismiss the appeal proposals.

2.0 ASSESSMENT OF HERITAGE SIGNIFICANCE AND THE LEVEL OF HARM CAUSED BY THE APPEAL PROPOSALS

Assessment of Heritage Significance

2.1 It is absolutely clear from his decision letter that the 2019 Appeal Inspector considered that the land at Oakhurst Rise forms an important part of the setting of the Grade II* Ashley Manor, both historically and as it exists today, noting (paragraph 73) that: '*The present circumstances are that the Manor and the site are intervisible through the current boundary vegetation and direct views are available from at least one north-facing window onto the currently mainly open, eastern part of the site, including the tree-covered mound of the Ice House. I observed this for myself, unlike the Inspector dealing merely with the draft allocation Policy HD4. Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views*'.

2.2 A similar long-held opinion about the importance of the Oakhurst Rise land to the setting of Ashley Manor can be found in Historic England's letter to the Council of 13 May 2020, itself of course written in context of the September 2019 appeal decision, which notes that '…*whilst the principal elevation faces southwards, the siting of this villa, extensive, rising grounds is of, arguably, equal significance. Ashley Manor is designated as Grade II*, and as such is in the top 8% of listed buildings. Therefore, greater weight should be given to its conservation*'.

2.3 Furthermore, after acknowledging that modern developments at the school '…*have eroded the historically isolated setting of Ashley Manor*', the letter goes on to point out that '…*the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later development to the north. The application site is clearly associated, historically, with the villa and that grounds of this extent would be expected with a high-status property*'.

2.4 From all this, there can be no doubt that great significance lies in the contribution that the open land to the north of Ashley Manor (i.e. the appeal site) makes to its setting as a Grade II* listed building.

2.5 In this connection it is worth noting the use of wrought-iron estate railings along the southern boundary of the appeal site, which shows that views from the house to the north and north-west were from the start intended to be open ones as they still are today. Humphrey Repton, among others, championed the use of estate railings for exactly that reason.

2.6 In my opinion, the appeal site also makes a fundamental contribution to the setting of Charlton Manor (originally known as Simla Lodge – presumably a reference to its airy, elevated position – and later Leasowe before taking its present name), which was first built in 1864, probably to the designs of Henry Dangerfield, Cheltenham Borough Engineer, who laid out the Battledown Estate.

2.7 Indeed, as noted in the Historic England list entry (Charlton Manor was first listed in 1983 at a time when many Victorian houses of this type were not deemed to meet the criteria for statutory listing), the house was the first to be built on the Estate, which can only increase its importance historically.

2.8 It is also the case that, as acknowledged by Grover Lewis (see paragraphs 3.18 & 3.19 of their Heritage Impact Assessment), the rear elevations of the house are at least as important in architectural and historic terms as the front one. This is reflected not only in the architectural detailing and treatment of the rear elevations, but also in the way in which they have been sited precisely where they are to gain maximum benefit of the open views looking south-west and west from the property.

2.9 The main ground- and first-floor rooms of the house are all at the back of the house, their large windows clearly designed to take advantage of the fine views from them over the house's garden, the adjoining fields (the appeal site) and the area beyond, which include the grounds of the school, the Cotswold escarpment and the Black Mountains in Wales.

2.10 In addition to these rooms, there is a two-storey canted bay window projection in the angle between the main rear elevation and the house's rear wing. Internally, this is located near the principal staircase and its original purpose (one which it continues to serve today) was to cast additional light into the staircase area, and particularly on the first floor, to provide additional views out from the house.

2.11 Critically, the importance of these extensive, outward views was acknowledged by the 2019 Inspector, notably at paragraph 75 of his decision letter, where he writes: '*The windows of the upper rooms especially afford open views across the appeal site, past the Ice House mound and as far as the mountains of South Wales on the far side of the Severn Estuary. Again, unlike the Inspector examining the draft Cheltenham Plan, I was able to experience these views personally*'.

2.12 The Inspector's view on how the appeal site contributes in its present undeveloped form to both Ashley Manor and Charlton Manor is then nicely summed up in paragraph 76: '*I recognise an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets*' (my emphasis).

2.13 Unsurprisingly perhaps, the appellants' heritage consultants, Grover Lewis, the fourth such consultancy to be engaged by the appellants in their attempts to develop the site, underplay the important contribution that the appeal site makes to the significance of the setting of Ashley Manor and Charlton Manor (a stance also evident in the Council's Conservation Officer's comments to the case officer dated 7 July 2020), although even Grover Lewis have to concede (paragraph 3.14 of their Heritage Impact Assessment, April 2020) that '*…the application site, with its former icehouse and open aspect, contributes modestly to the wider setting and significance of Ashley Manor*' (see also paragraph 3.10 of that document).

2.14 Grover Lewis adopt a similar position in their assessment of the contribution that the appeal site makes to significance of the setting of Charlton Manor, stating (paragraph 3.19) that '*Whilst the significance of Charlton Manor derives principally from its intrinsic architectural quality and its historical interest, its wider landscape setting, embracing the open land to the immediate west, contributes to its significance*'.

Assessment of the Level of Harm Caused by the Appeal Proposals

2.15 The 2019 Inspector found that the proposals in front of him, including new landscape planting on the boundary between the site and Ashley Manor, which '*…would obstruct the relationship of the Manor to this part of its setting*' (paragraph 78), and their '*…effects on the visual relationship between the Grade II* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the listed building*'.

2.16 With reference to Charlton Manor, the Inspector likewise commented (paragraph 84) that '*…new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings*', and (paragraph 85) that '*As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this listed building*'.

2.17 Taking the effect of the appeal proposals on the two designated heritage assets together, the Inspector went on to conclude (paragraph 87) that '*The harm to the settings of both these designated heritage assets, whilst less than substantial in terms of Framework paragraph 176, is nonetheless also significant. It requires consideration against the significance of the assets themselves as well as that of the level of any public benefit resulting from the development, in the final planning balance, addressed below*'.

2.18 The new appeal proposals are of course reduced in extent from the scheme dismissed in 2019 and the appellants will no doubt therefore seek to argue that their new scheme addresses all the heritage concerns expressed by the 2019 Inspector.

2.19 Certainly, this is the line adopted by Grover Lewis in Section 4.0 of their Heritage Impact Assessment, and following their lead, by the Council's Conservation Officer in his memorandum of 7 July 2020, but it is misleading in the extreme.

2.20 Paragraph 4.2 of the Grover Lewis report states that '*The scheme seeks to address the heritage issues raised by the Council's Conservation Officer and the Inspector at the Public Inquiry in September 2019*' but, given that none of the Inspector's specific concerns are addressed by them or anyone else on the appellants' team, it is simply not possible to understand how this has been done.

2.21 Indeed, rather than actually addressing the Inspector's clearly articulated concerns, or for that matters those expressed by the Council's Conservation Officer in his proof of evidence and at the 2019 inquiry, Grover Lewis take the view that because the housing numbers have been reduced, an 'open' area of land is left in the south-east corner of the site and because extensive tree screening is proposed, the impact on the significance of the settings of Ashley Manor, Charlton Manor and the icehouse[1] is somehow '*minimal*' and '*would be at the low end of less than substantial harm in terms of the NPPF*' (see paragraphs 4.7, 4.9 & 4.11 of their report).

2.22 This is simply not good enough. While it is true that the new scheme is slightly less damaging to the significance of the settings of Ashley Manor, Charlton Manor and the curtilage listed icehouse than that dismissed by the 2019 Inspector given that the assets are not completely hemmed in by development around them as they were previously, this does not make the new scheme acceptable.

2.23 The retention of an area of open land in the south-east corner of the site is an improvement on what was offered before, but as the whole of this site (which has never been developed) is currently open, it is only a very small one.

2.24 Furthermore, the proposed provision of extensive tree screening, made so much of by Grover Lewis for its supposedly beneficial function in forming a '*substantial visual buffer between the listed buildings and the developed parts of the site*', misses the point completely.

2.25 As referred to earlier in this report, the 2019 Inspector clearly regarded the existing (and historic) openness of the site as forming a major element of the significance of

[1] At the time of the 2019 appeal the Council made it clear that it considers the icehouse to be curtilage listed to Ashley Manor. Critically, the 2019 Inspector did not take issue with this view.

the settings of the listed buildings and therefore concluded that the impact of the scheme on that openness would be highly adverse.

2.26 The 2019 Inspector was not persuaded that the proposed tree planting on the eastern and southern boundaries of the site would be an appropriate means of preventing or even mitigating harm and in this regard, I would draw the new Inspector's attention to paragraph 40 of Historic England's 'The Setting of Heritage Assets- Historic Environment Good Practice Advice in Planning Note 3, (2nd edn. December 2017).

2.27 This states that: '*As screening can only mitigate negative impacts, rather than removing impacts or providing enhancement, it ought never to be regarded as a substitute for well-designed developments within the setting of heritage assets. Screening may have as intrusive an effect on the setting as the development it seeks to mitigate, so where it is necessary, it too merits careful design*'.

2.28 Certainly, I can see no reason why the proposed dense belt of new tree planting across the centre of the appeal site should be regarded as compatible with the open views that Charlton Manor currently enjoys across the site towards the Black Mountains, particularly as these views were clearly historically intended.

2.29 Likewise, in their assessment of the impact of the new scheme on Ashley Manor in their letter of 13 May 2020 Historic England note that '*The revised application has removed the new planting, shown along the northern side of this boundary* (i.e. the boundary between the site and Ashley Manor) *on the dismissed scheme. However, a significant tree belt is proposed within a few metres of the boundary which would effectively divorce the visual connection between the carriageway approach to the west elevation of Ashley Manor and its open, green setting beyond. This impact may be demonstrated by some additional analysis of the view presented in Plate 7 (in addition to others) in the Heritage Impact Assessment. We remain very concerned over the visual severance of the open land to the north of Asley Manor*'.

2.30 This assessment of the harm the new scheme causes to the setting of Ashley Manor and its significance is one with which I concur completely.

2.31 In short, it is my considered professional opinion that the new scheme causes considerable and irreversible harm to the significance of the settings of Ashley Manor, Charlton Manor and the icehouse.

2.32 I do not claim that this harm is 'substantial' (the NPPG accompanying the NPPF states that ' *In general terms, substantial harm is a high test, so it may not arise in many cases*' – paragraph, 018 Reference ID: 18a-018-20190723), but for all the reasons set out above (and in the comments of Historic England regarding Ashley Manor) I consider it falls towards the upper end of the scale of 'less than substantial harm', as that term is used in paragraph 196 of the NPPF.

2.33 The appeal proposals thus also fail to meet statutory test set by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and run contrary to adopted policy SD8 of the Council's Joint Core Strategy (2017).

2.34 I therefore ask the Inspector to take this assessment of harm into account when determining the 'planning balance' as she is required to do by paragraph 11d(ii) of the NPPF and to dismiss the appeal accordingly.

3.0 CONCLUSION

3.1 For all the reasons set out in the body of this report, I am firmly of the view that the appeal proposals would cause considerable and irreversible of harm to the settings of the Grade II* listed Ashley Manor, the Grade II listed Charlton Manor and the curtilage listed icehouse.

3.2 I place the degree of harm caused to these designated heritage assets towards the upper end of the scale of 'less than substantial harm', as that term is used in paragraph 196 of the NPPF.

3.3 The appeal proposals therefore also fail to meet statutory test set by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and run contrary to adopted policy SD8 of the Council's Joint Core Strategy (2017).

3.4 I therefore ask the Inspector to take this assessment of harm into account when determining the 'planning balance' as she is required to do by paragraph 11d(ii) of the NPPF and to dismiss the appeal accordingly.

APPENDIX ONE

QUALIFICATIONS AND EXPERIENCE

NICHOLAS DAVID BARTHOLOMEW DOGGETT, B.A., Ph.D., Cert. Archaeol., FSA, MCIfA, IHBC, Managing Director of Asset Heritage Consulting:

After reading archaeology and history at the University of Southampton and completing a postgraduate qualification at the University of Oxford I worked for several years as an archaeologist, both in the United Kingdom and abroad. From 1984 to 1988 I was employed on the English Heritage Resurvey of listed buildings in Shropshire, Oxfordshire and Cornwall. From 1988 to 1989 I was a member of the Conservation Team at Bedfordshire County Council before joining South Oxfordshire District Council, where I was head of Conservation from 1991 to 2002, before leaving for CgMs in October 2002, of which I was a Director from 2004.

I left CgMs in November 2010 to establish Asset Heritage Consulting, a specialist heritage consultancy based in Oxford but working across the country.

My doctoral research on 16th-century English architecture was completed in 1997 and has subsequently been published. I am a member of the Institute of Field Archaeologists and the Institute of Historic Building Conservation. I was elected a Fellow of the Society of Antiquaries of London in October 2016.

I am the author of two books and several articles and papers on archaeology, building conservation and architectural history, including contributions to the *Oxford Dictionary of National Biography*, and have given lectures and taught on summer schools on these subjects for Oxford University Department of Continuing Education and many other organizations. I was formerly committee secretary of the Buildings Special Interest Group of the Chartered Institute for Archaeologists and have served for two periods as a committee member of the Oxfordshire Architectural & Historical Society.

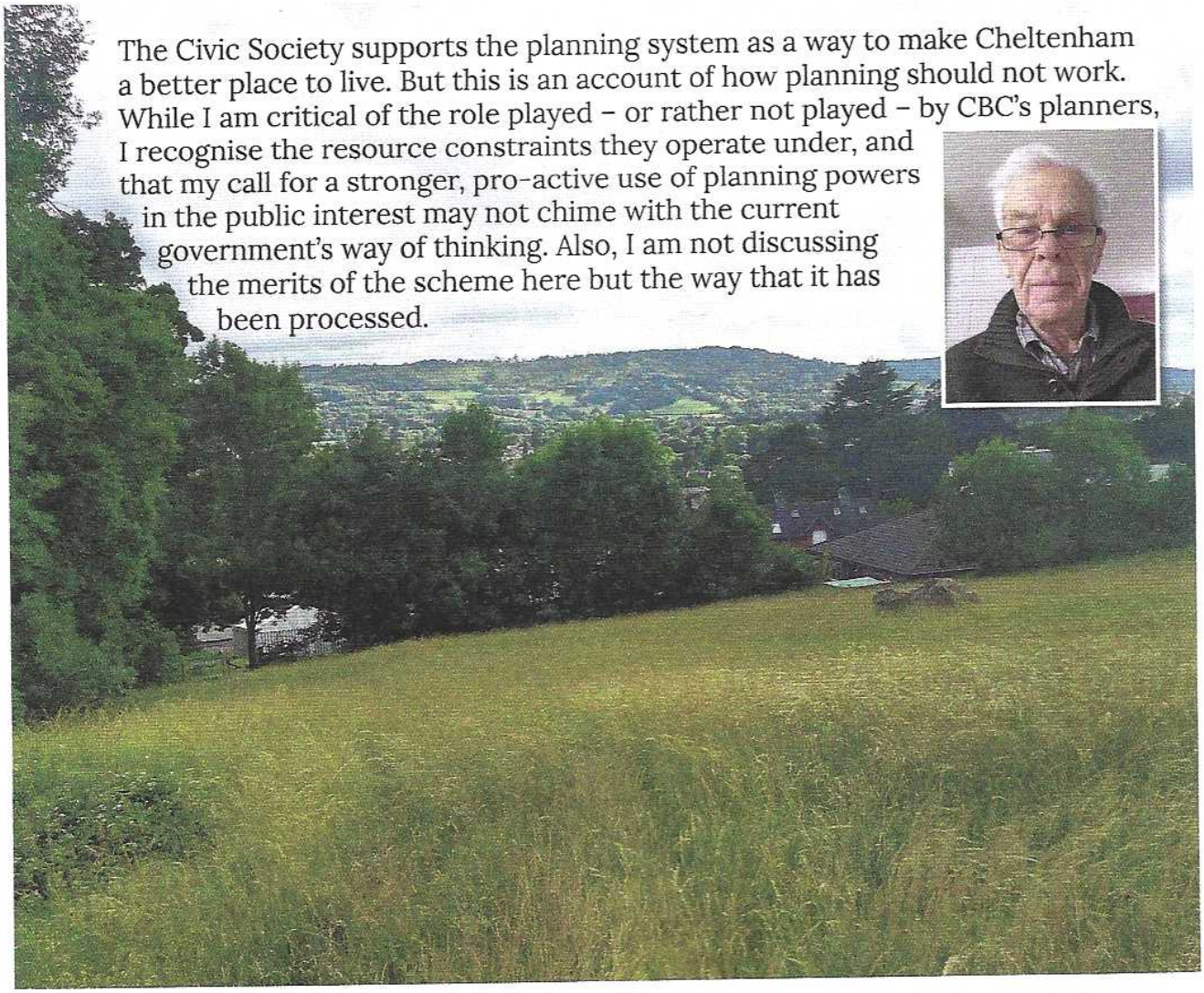
In the private sector my clients have included Bournville Village Trust, various Oxford colleges, several Local Planning Authorities, the Metropolitan Police, the Home Office and numerous major house builders. I have also acted as a consultant for Historic England and Cadw on applications for listing, re-grading, de-listing and Certificates of Immunity. I have given evidence relating to the historic built environment at numerous public inquiries and hearings and in court, both for appellants, third parties and local planning authorities.

A CURRENT CASE STUDY : OAKHURST RISE

How not to do planning

By Adrian Phillips, a member of the Civic Society's Planning Forum

The Civic Society supports the planning system as a way to make Cheltenham a better place to live. But this is an account of how planning should not work. While I am critical of the role played – or rather not played – by CBC's planners, I recognise the resource constraints they operate under, and that my call for a stronger, pro-active use of planning powers in the public interest may not chime with the current government's way of thinking. Also, I am not discussing the merits of the scheme here but the way that it has been processed.



This story concerns the development of an attractive piece of land in Charlton Kings, north of St. Edward's Preparatory School on the south slope of Battledown. (For planning purposes, it's called "Land Adjacent to Oakhurst Rise".)

The school has had the benefit of this area on its doorstep but it is not formally used for recreation. It consists of 4.3 hectares (ha) of open land under hay separated into two parcels by a mature hedge and trees. 18 individual trees and eight groupings of trees are covered by TPOs (Tree Preservation Orders). The area also has other important heritage, wildlife and landscape values.

Though it is not open to the public, it is regarded by those living nearby in Battledown as an important amenity. It lies within the boundaries of the Principal Urban Area defined in the emerging Cheltenham local plan. where the potential for development is recognised.

The land is owned by the Carmelite Charitable Trust (CCT), who are also the school's landlords. The CCT has offered to transfer the school site to St Edward's if they can develop the 4.3 ha of land.

OAKHURST RISE SITE LOCATION

THE STORY SO FAR

In August 2017, an outline planning application to build 90 new houses was made by CTT, along with developers William Morrison. The application consisted of 21 separate documents (some of which were withdrawn and revised during the application process).

Many public and other bodies, including English Heritage and Natural England, commented at length (their combined observations make up 66 pages on the website). 309 individual objections were also made.

The application was rejected in July 2018 on several grounds: loss of fine trees; damage to the setting of historic buildings; threats to protected species; damage to the amenities of neighbours; excessive traffic loads; and landscape impact.

The applicants then submitted a revised scheme for 69 dwellings. Once more, dozens of documents were prepared in support of the scheme, many bodies commented on it, and hundreds of objections were made to it. Though officers wanted to approve this new proposal, it was rejected by the Planning Committee in March 2019, for very much the same reasons that they had given for their previous refusal.

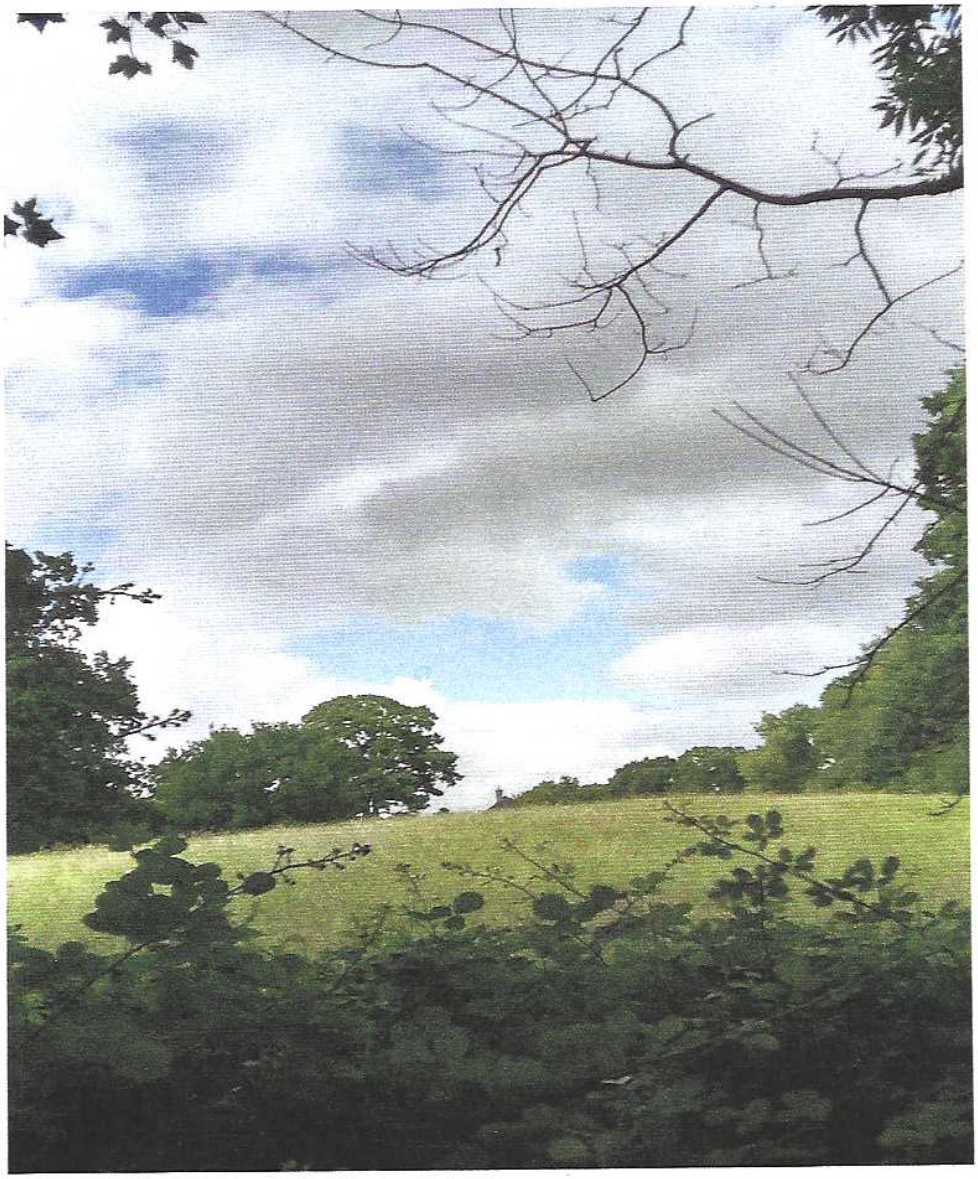
The developers went to appeal: another body of evidence and contrasting opinions were gathered to assist the Inspector. He dismissed the appeal in August 2019. But he noted that the Council's emerging local plan provided for some 25 dwellings on this land and added that an allocation of that scale "would considerably reduce the potential for the harmful impacts which were identified in the appeal scheme".

The developers took this as a green light to try again. In April 2020 they submitted a revised proposal for 43 homes. Once again, over 70 documents were generated in support of the scheme, more than a dozen bodies (including the Civic Society's Planning Forum) submitted their views and about 140 objections came from the public. The planners' decision may be taken after the lockdown eases.

A DISPIRITING EXPERIENCE

This is a crazy way to decide such matters. Developers, consultees, the planning authority, the Planning Inspectorate and local people have all been engaged in three years of a war of attrition in which the developers' ambitions have been whittled back by stages from 90, to 69, to 43 and perhaps next to 25.

Large amounts of public and private money and time have been spent. Much needless anxiety has been generated among the local community. Little thought has been given to the wider public benefit this site could offer to Cheltenham.



To read the volumes of stuff about "Land Adjacent to Oakhurst Rise" on the CBC website is a dispiriting experience.

A BETTER WAY

There must be a better way to do this kind of thing. And indeed there is.

The Council could have played a leadership role rather than a reactive one, perhaps by preparing a Local Area Action Plan for the site, which would eventually form part of the local plan for Cheltenham. Once the potential development of the site was flagged up, they could have brought the interested parties – the landowners and developers, the stakeholders and the neighbours – together to work on such a plan for the area.

This would certainly have made some provision for housing but it would also have made sure that key assets – like the trees, the wildlife and the heritage features – were recognised and safeguarded. And it would have explored how some of the site could have been used for public access: with its fine views across Charlton Kings to the Cotswolds, part of this area could become a very attractive park.

Of course, a proactive planning approach might not have ironed out all the potential competing and conflicting interests. But it would have been a good learning process for everyone involved. Instead of three years of dispute, there would have been a shorter and more productive phase that would have encouraged compromise and agreement.

Too often planning comes across as a battleground between developers on the one hand and local residents on the other, with the planning authority in the middle. But here, as elsewhere, there is a better way to do things.

Planners just need to plan.

Adrian Phillips CBE, MRTPI (rtd.), FLI

KWS Policy Assessment

Project: Land Adjacent to Oakhurst Rise, Cheltenham

Technical Briefing Note TN11: Assessment of Compliance with Joint Core Strategy Policy SD9 (2ii & 5) should the Site be Designated a KWS

Date: 17 August 2020

1 Introduction

1.1 Aspect Ecology has been appointed by William Morrison (Cheltenham) Ltd. to advise on ecological matters relating to the site at Land Adjacent to Oakhurst Rise, Cheltenham. The site is proposed for residential development and associated landscape enhancements.

1.2 It has recently been suggested by the Charlton Kings Friends (CKF) that the site could qualify as a Key[1] Wildlife Site (KWS) on the basis of the site's grassland interest, when assessed against the Gloucestershire KWS Selection Criteria[2], which have been developed by the Gloucestershire Wildlife Sites Partnership. In particular, CKF suggest that the minimum number of grassland indicators (20) required for designation are present, although no formal survey report has been submitted to support this claim.

2 Background

2.1 In order to further investigate the suggestion that the site could qualify as a KWS, Aspect Ecology has undertaken a further formal botanical survey of the site, carried out by an experienced botanist. The results of this work are set out in Aspect Ecology's Technical Briefing Note TN09 entitled 'Results of Botanical and NVC Survey' 05 August 2020 (see Appendix 1 - copy within TN08). It combines 2019 survey data and records that the sward is herb poor (5 – 10% cover) and grass dominated and records some 12 KWS indicator species, a shortfall of 8 species to the minimum required. The survey also notes that the number of species recorded per quadrat is lower than the averages for the described NVC communities, illustrating that the identified areas of grassland are relatively poor examples of their type.

2.2 Against this background, Aspect Ecology has provided a critique of the suggestion that the site could qualify as a KWS within correspondence to Gloucestershire Wildlife Trust (who administer the KWS site selection process) dated 07 August 2020 (see Appendix 2). In summary, this finds:

"the species identified by CKF do not appear to arise from a formal survey and hence there is no record of how the data has been collected, when they were collected, by what method, by who, their qualifications and botanical experience or where the species lie or their frequency. Accordingly, there can only be low confidence in the data. The count of 21 species includes four species which are likely closely associated with the hedgerows, trees and boundary vegetation rather than within the core grassland areas. Accordingly, these should be discounted from the list such that number of relevant KWS grassland species is reduced to 17. Grassland KWSs should be special and recognisable to the public, typically because they are "full of flowers". The grassland at Oakhurst Rise does not support the above characteristics due to the low frequency and constancy of herbs in the sward (typically 5 – 10%). Accordingly, if the grassland were to be designated as a KWS, any Wildlife Trust members visiting would likely be disappointed by what they found, as the grassland does not possess these special features, it being rather ordinary in nature. The prospects for restoration of the grassland are low while similarly conservation management is not secured. As such, the grassland interests remain at risk of being lost. Accordingly, it is our view that the grassland falls short of possessing the necessary ecological interest required for qualification as a KWS designation".

2.3 This correspondence was accompanied by Aspect Ecology's Technical Briefing Note TN08 entitled 'Assessment of the Site Against Gloucestershire Local Wildlife Site Criteria' (see Appendix 1) which carries out a formal assessment of the site's interest features against the KWS selection criteria. This concludes:

"detailed botanical survey work coupled with a review of the General Criteria finds that that site is not of elevated value. Accordingly, in our opinion it does not meet the required criteria for designation as a KWS. Indeed, should it be designated it would serve to de-value the series as a whole through the inclusion of a non-key site".

2.4 This information has been submitted to Gloucestershire Wildlife Trust who responded in correspondence dated 07 August 2020, received 10 August 2020, (see Appendix 3) which sets out:

"As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not".

2.5 The correspondence goes on to set out:

"The panel may be unable to convene before the planning application goes to committee. The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland

[1] Renamed Local Wildlife Sites in January 2019

[2] See Gloucestershire Key Wildlife Sites Handbook. GCER. 2015.

habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site".

3 Policy Assessment - Overview

3.1 Given the KWS Panel will be unlikely to convene before the proposals are heard at Committee, it is relevant to examine how the site should be treated in the event it were to be designated as a KWS (notwithstanding that in Aspect Ecology's opinion, the site is not of the required quality for designation).

3.2 Reference to the Joint Core Strategy (JCS), a coordinated strategic development plan between Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council, finds that Policy SD9:Biodiversity and Geodiversity contains the relevant tests to be applied. These lie at SD9(2ii) and SD9(5) which address locally designated sites, with other parts of the policy either not of relevance or relevant to all sites regardless of their status.

3.3 It is pertinent to note that neither SD9(2ii) or SD9(5) represent a bar to development, but rather both permit development proposals to be permitted within KWS designations if specific policy tests are met.

3.4 A review of these tests is set out below, along with an assessment of the scheme's compliance or otherwise with these tests.

4 Policy Assessment – application of the tests of SD9(2ii)

4.1 JCS Policy SD9(2ii) states:

"This[1] will be achieved by:

2ii Conserving and enhancing biodiversity and geodiversity on internationally, nationally and locally designated sites, and other assets of demonstrable value where these make a contribution to the wider network, thus ensuring that new development both within and surrounding such sites has no unacceptable adverse impacts"

4.2 Hence, two relevant policy tests to KWS designations are present, namely:

- Do the proposals conserve and enhance the biodiversity of the site? and;
- Ensure that new development both within and surrounding such sites has no unacceptable adverse impacts?

4.3 These are examined in turn below.

[1] SD9(1) *"The biodiversity and geological resource of the JCS area will be protected and enhanced in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interests"*

Do the proposals conserve and enhance the biodiversity of the site?

4.4 The biodiversity value of the site is documented within Aspect Ecology's Ecological Appraisal report (May 2020) which also includes an assessment of the effects of the proposals on the biodiversity assets present. These can be summarised as:

- **Veteran trees/mature trees and hedgerows**: These have been identified as ecologically important features, given their demonstrable value to biodiversity. Accordingly, these features have been sensitively incorporated within the scheme. All veteran trees are retained, and harm mitigated through a sensitively designed scheme and appropriate arboricultural practices. The mature trees and mature hedgerows are largely retained under the proposals, with any unavoidable loss of a very small number of mature trees and small hedgerow sections compensated through the creation of a diverse native wooded belt and substantial native hedgerow creation, the latter resulting in a ~397% net gain [2] for hedgerows at the site. Accordingly, the biodiversity interests of these features is conserved and enhanced under the proposals.
- **Grassland**: This is assessed below under the review of policy SD9(5), with a net beneficial outcome, following mitigation, achieved under the proposals.
- **Other habitats:** These include an ephemeral pond, tall ruderal, and scrub. They make a relatively limited contribution to the overall biodiversity of the site, as they are small in extent, and/or in poor condition and lacking appropriate management, and therefore their loss to proposals would be of minor-negligible ecological significance. In any case, tall ruderal vegetation would be expected to re-establish naturally post-development, whilst new diverse native shrub planting will compensate for the loss of small areas of scrub. The scheme also incorporates a replacement pond with a design based on ecological principles with large draw down zones and two pools of standing water, providing an enhanced aquatic habitat more attractive to amphibians and Grass Snake than the existing feature. Accordingly, 'other habitats' are fully mitigated and compensated under the proposals.

4.5 In conclusion, a review of the proposals finds that, following mitigation and compensation, the proposals conserve the biodiversity features of the site.

Do the proposals ensure that new development both within and surrounding such sites has no unacceptable adverse impacts?

4.6 The review above concludes that the ecological features of the site are conserved and enhanced and accordingly, significant harm to biodiversity is appropriately avoided, mitigated or compensated. Consequently, the proposed new development would have no unacceptable adverse impact on biodiversity.

Conclusion

4.7 A review of the policy tests of SD9(2ii) finds that these are fully satisfied by the proposals.

[2] Technical Note TN10: Biodiversity Impact Assessment Using DEFRA Biodiversity Metric 2.0 Calculation Tool (August 2020)

5 Policy Assessment – application of the tests of Policy SD9(5)

5.1 Policy SD9(5) states:

"Development within locally-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated".

5.2 Hence, two relevant policy tests to KWS designations are present, namely:

- Is there an adverse impact on the registered interest features or criteria for which the site was listed? and;
- Can any harm be avoided or satisfactorily mitigated?

5.3 These are examined in turn below.

Is there an adverse impact on the registered interest features or criteria for which the site was listed?

5.4 The site has been suggested for KWS designation on the premise it may meet at least one of the general criteria set out within Part 2 of the Gloucestershire Key Wildlife Sites Handbook[5], and the grassland habitat criteria. Specifically sub-category H5.2 which requires an area of seminatural grassland larger than 0.5ha to support one or more of the NVC grassland community types listed and supports 20 or more species from a list of species occurring on grassland of high conservation concern in Gloucestershire.

5.5 The grassland interest of the site is the focus of the suggestion for KWS designation and in Policy SD9(5) terms is the 'registered interest feature'. Hence, to address the policy test, it is necessary to assess the effect of the proposals on the grassland within the site.

5.6 There is approximately 3.38ha of grassland on the site at present. Under the proposals some ~1.9ha will be retained, representing 56% of the current extent. At the present time, the grassland is of relatively low conservation value with the claimed KWS indicators species present at a very low frequency such that they cannot be readily re-recorded, while some are in fact associated with the adjacent hedgerows and boundary scrub and trees such that they should, in our opinion, not in fact be included in the grassland species list. Accordingly, the herb cover (which is what confers the grassland its botanical and in turn associated biodiversity interest) is at an extremely low value, typically 5 to 10%. This is contrasted to grasslands of high conservation interest which have herb cover values of 50% plus.

5.7 Accordingly, if the grassland were to be designated as a KWS, any Wildlife Trust members visiting would likely be disappointed by what they found, as the grassland does not possess these special features, it being rather ordinary in nature. This reflects the fact that MG1 (the technical classification of the grassland community present) is a common grassland type, with the grassland on the site representing a species poor example of its type.

5.8 No protection is afforded to the site currently or to designated KWSs and accordingly there is a risk that a change in management could result in the loss of any grassland interest currently present. For example, this could include application of herbicide, fertilizer, re-seeding or other inappropriate management. Accordingly, the future of such sites is not secure, which is a key consideration for planning.

5.9 Notwithstanding the above points, the reduction in the grassland area under the proposals, without mitigation, would lead to an adverse impact on the registered interest feature for which the site could be designated. Accordingly, it is necessary to examine the second part of the policy test.

Can any harm be avoided or satisfactorily mitigated?

5.10 Some ~1.9ha of grassland will be retained which will continue to exceed the minimum area KWS size threshold of 0.5ha.

5.11 As set out above, the grassland is currently of limited conservation interest, primarily due to its low herb cover in the sward, and accordingly the losses proposed should be viewed in this context i.e. it is not a significant loss of a high conservation resource. Rather, it is a partial loss of a grassland of currently relatively low conservation interest.

5.12 Accordingly, the nature of the grassland interest is such that it is fully capable of being satisfactorily mitigated. Specific mitigation in relation to grassland is proposed under the scheme. This can be summarised as follows:

- **Secure future**: The future of the grassland will be secured and protected such that the current risk that its interest would be lost through inappropriate management e.g. application of herbicide, fertilizer or re-seeding, would be removed;

[5] GCER (July 2015) Gloucestershire Key Wildlife Sites Handbook Part 2 v4.5 Final

- **Restoration**: Positive work would be carried out to restore the grassland interest to that of a meadow of high conservation value e.g. NVC type MG5, which would include over 20 KWS indicator species. The detail of how this would be achieved would be the subject of a specific method statement, but could include the scarification of the sward to expose the underlying seedbank and soil and the import of green hay from a suitable local donor meadow if one is available or alternatively the spreading of an appropriate native wildflower seed mix with a large Yellow Rattle component to reduce the vigour of coarse grasses;
- **Conservation management**: Favourable grassland conservation management which is essential to retain the biodiversity interest of grasslands would be secured under the proposals which would be prescribed within a formal management plan. This would then be actioned to ensure the management of the grassland is optimal to maintain the restored botanical interest;
- **Long term funding**: Funding to manage the meadow would be secured under the proposals. This would most likely arise via a service charge on properties such that an assured source of funding for conservation management of the grassland would be available for the life of the development.

5.13 Hence, the proposals trade a larger area of relatively low conservation interest grassland for a smaller area of a significantly higher quality grassland. Importantly, not only would the botanical interest of this retained grassland be significantly enhanced, but of particular note is that the attendant faunal biodiversity would also significantly benefit. In this regard the resulting pollen and nectar sources would be considerably increased with the consequence that invertebrate interests would also increase significantly, including highly visible groups such as butterflies and moths. The grassland would be patrolled by dragonflies from the proposed pond while small mammals, reptiles, amphibians, birds and bats would be attracted to the restored grassland.

5.14 Such grassland would be of high conservation interest and accordingly the registered interest feature would be enhanced over the currently situation.

5.15 Moreover, this interest would also be secured under the proposals from potential adverse land use changes. Similarly, the biodiversity interests can only be maintained by the application of appropriate conservation management. This would also be secured under the proposals as would long term funding. These measures, which cannot be appropriately captured by a metric, should be afforded very significant weight and result in a net beneficial outcome for the grassland interest feature.

Conclusion

5.16 It can be concluded from the above review that effects on the 'registered interest feature' [grassland] would be satisfactorily mitigated under the proposals and as such the policy tests under SD9(5) would be met in the event that the site were to be designated as a KWS.

6 Consultation with County Ecologist

6.1 The potential of the site to be designated a KWS has recently been considered by the County Ecologist in correspondence dated 12 August 2020 (see Appendix 4) which was issued following a specific site visit to consider this matter undertaken on 6 August 2020.

6.2 Within this correspondence, the County Ecologist makes a number of points, of which 3, 4 and 7 are particularly pertinent:

"3. In my opinion there is no convincing case for the meadow to be designated a new Local Wildlife Site. The meadow is poor quality MG1 grassland (Mesotrophic Grassland Type 1 of the National Vegetation Classification) and of low conservation value.
4. A Local Wildlife Site designation does not preclude appropriate development and the Wildlife Trust letter reflects this point. The development provides an opportunity to secure the long-term conservation and enhancement of local biodiversity. A large area of the site would become better managed and provide an improved educational resource for the adjoining school
7. The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location".

6.3 Accordingly, the County Ecologist is also in agreement that, in the event the site was to be designated a KWS, that the tests in policy SD9 would still be met.

7 Summary and Conclusion

7.1 Aspect Ecology has undertaken an assessment to determine whether the proposals would be compliant with Joint Core Strategy Policy SD9, specifically parts 2(ii) and 5, should the site be designated as a Key Wildlife Site. It is noteworthy, that even if designated a KWS, these policies do not present a bar to development, but rather require that specific tests are met by any proposals. This note has assessed those tests.

7.2 In this regard, the scheme sensitively incorporates biodiversity features of demonstrable value e.g. veteran trees, and where losses of habitats within the site are unavoidable e.g. some hedgerows, these are satisfactorily mitigated. In respect of grassland matters, some 56% of the existing resource would be retained. The grassland at present is of relatively low botanical value and accordingly of reduced ecological function, such that in Aspect Ecology's opinion it does not merit KWS designation. Under the proposals the retained grassland would be significantly enhanced and its botanical interest would be greatly increased, which in turn would provide enhanced resources for its attendant faunal biodiversity. Furthermore, its future would be secured and the risk removed that its interest could be lost through inappropriate management. Its enhanced biodiversity value would be maintained through the application of a specific conservation management plan with funding secured for the long term. Accordingly, a net beneficial outcome would arise for the grassland interest present.

7.3 The County Ecologist is in agreement with this assessment, informed by a specific site visit carried out to assess the potential of the site to qualify as a KWS. Similarly, the proposals align with the views of Gloucestershire Wildlife Trust that:

"any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site".

7.4 Accordingly, following the above assessment, the proposals are considered to accord with Joint Core Strategy Policies SD9 (2ii) and SD9 (5).

Appendices:

Appendix 1: Technical Briefing Note TN08 entitled 'Assessment of the Site Against Gloucestershire Local Wildlife Site Criteria' including Aspect Ecology's Technical Briefing Note TN09 entitled 'Results of Botanical and NVC Survey' 05 August 2020

Appendix 2: Correspondence from Aspect Ecology to Gloucestershire Wildlife Trust dated 07 August 2020

Appendix 3: Correspondence from Gloucestershire Wildlife Trust dated 07 August 2020

Appendix 4: Correspondence from the County Ecologist dated 12 August 2020

Appendix 1:

Technical Briefing Note TN08 entitled ‘Assessment of the Site Against Gloucestershire Local Wildlife Site Criteria’ including Aspect Ecology’s Technical Briefing Note TN09 entitled ‘Results of Botanical and NVC Survey’ 05 August 2020

aspect ecology KWS

Assessment

Project: Land Adjacent to Oakhurst Rise, Cheltenham

Technical Briefing Note TN08: Assessment of the Site Against Gloucestershire Local Wildlife Site Criteria

Date: 07 August 2020

1. Executive Summary

1.1 Aspect Ecology has carried out a review of the above site in relation to the Gloucestershire Key Wildlife Site (KWS) Selection Criteria, which have been developed by the Gloucestershire Wildlife Sites Partnership.

1.2 In order to potentially qualify as a KWS on the basis of grassland habitat, a site must meet at least one of nine General Criteria, such as diversity or value for learning. In addition, any site must be subject to detailed botanical survey work to identify the plant communities present (using the National Vegetation Classification NVC methodology) and identify the presence of any species listed as occurring on grasslands of high conservation concern in Gloucestershire. The site must fit one of the listed plant communities AND have above a threshold of the listed species of conservation concern in order to potentially qualify as a KWS.

1.3 A review of the site against the General Criteria has been carried out below, which finds that the site does not meet any of the listed criteria. This is largely due to the small size and suburban nature of the site (being surrounded on three sides by housing and on the fourth side by a school), a lack of historic management, a lack of public access and a lack of species diversity.

1.4 The site has been subject to detailed botanical survey work by an experienced botanist in August 2020, which finds the site is considered to have the closest affinity to NVC community MG1a, which is a grass-dominant, species-poor community typical of fields subject to infrequent management. Correspondingly, the site therefore must contain at least 20 of the listed species of conservation concern. The survey identified 12 species which therefore falls well short of the threshold of 20.

1.5 In summary, detailed botanical survey work coupled with a review of the General Criteria finds that that site is not of elevated value. Accordingly, in our opinion it does not meet the required criteria for designation as a KWS. Indeed, should it be designated it would serve to de-value the series as a whole through the inclusion of a non-key site.

2. Introduction

2.1 It is understood that the land adjacent to Oakhurst Rise, Cheltenham has been put forward by Charlton Kings Friends (CKF) as a potential Gloucestershire Key Wildlife Site (KWS), on the basis of its grassland habitat. This is set out in correspondence from Bioscan dated 29 July 2020.

2.2 Aspect Ecology has been commissioned to carry out a review of the potential of the site to qualify as a KWS. This review is set out below.

3. Process of Designation

3.1 The methodology for selection of KWS is set out in Part 1 of the Gloucestershire Key Wildlife Sites Handbook[3], and is summarised below.

Gloucestershire Wildlife Sites Partnership

3.2 During 1976-1977, the Gloucestershire Wildlife Trust conducted a habitat survey of the county. As part of this work, approximately 300 sites were surveyed which were identified as being of ecological significance within Gloucestershire and formed the first Key Wildlife Sites. The Gloucestershire Wildlife Sites Partnership was set up in January 2010 to oversee the Key Wildlife Sites system.

Site Selection Panel

3.3 From within the Wildlife Sites Partnership, the handbook stated in 2015 that a panel would be appointed to apply the LWS selection criteria and decide whether a candidate site should be designated as an LWS. As stated in section 1.10 of the handbook: "*The operation of the Site Selection Panel is heavily dependent on the carrying out of regular KWS surveys, both of potential new sites and existing KWS*."

[3] 1 GCER (July 2015) Gloucestershire Key Wildlife Sites Handbook Part 1 v4.5 Final

Site Survey

3.4 Section 1.11 of the handbook gives guidance in relation to surveys, such as acquiring landowner permission to access the site for survey. In this regard it states: "*If no permission is forthcoming, either through inability to contact the landowner or through refusal, then surveyors will not trespass on land in order to acquire data*".

3.5 A key element in identifying a KWS is the carrying out of a detailed and robust site survey. No specific guidance is given in the handbook in relation to the requirements for experience and expertise of the surveyors, however in relation to habitats it states "*Habitat survey for KWSs is based upon an extensive survey with site and habitat descriptions, a habitat map and species list…. Full National Vegetation Classification survey information may also be collected and used on occasions*." Given the key importance of obtaining accurate high quality survey data in informing the KWS site selection process, survey data should therefore be collected by reputable surveyors or organisations.

3.6 The criteria for a grassland KWS (as described further below) state that sites may only qualify where the grassland is identified as a particular plant community type using the National Vegetation Classification (NVC) system AND supports a threshold number of particular species from a given list. Carrying out NVC surveys requires a high level of knowledge and expertise, and

therefore it would be expected that a suitably robust survey would be carried out by environmental professionals with many years' experience of carrying out botanical surveys and using the NVC technique. Therefore, whilst surveys carried out by amateurs may be helpful in highlighting the potential of a site to be a KWS, should not be relied upon as an evidence base for site selection and therefore caution should be attached to any such records.

3.7 On completion of the survey, a report is written by the surveyor and sent to the Site Selection Panel to evaluate each site against the selection criteria, who will call in additional technical expertise where required. If the site meets the thresholds within the selection criteria it is put forward for selection as a proposed KWS.

3.8 Any site which is not approved would be recorded for a review at a later date, for example borderline KWS or sites with inadequate survey information (i.e. survey data has not been collected by a suitably experienced surveyor or reputable organisation).

Ratification and Notification of Landowners

3.9 Following the above, the potential KWS goes through a formal ratification process and the site is added to the KWS register.

4. Site Selection Criteria

General Criteria

4.1 Part 2 of the Gloucestershire Key Wildlife Sites Handbook lays outs the site selection criteria for KWS[4]. As set out in section 2.5 of the document, all sites should fulfil at least one of the criteria in the Checklist of General Key Wildlife Site Criteria (set out in section 2.1 of the handbook part 2) which include:

- Size or Extent;
- Diversity;
- Naturalness and Typicalness;
- Rare or Exceptional Feature;
- Fragility;
- Recorded History or Cultural Associations;
- Wildlife Corridors and Other Connected Habitats; • Value for Appreciation of Nature; and
- Value for Learning.

4.2 Section 2.5 states that some habitat selection thresholds depend on lists of indicator plant species, however it is important to note that the Site Selection Panel will **NOT** select a just because it fulfils the minimum threshold of species, the site must also fulfil **at least one** of the General Criteria. It also states that: "*Sites which only support habitats with features that do not meet the minimum thresholds will not be selected as KWS, unless other factors – such as value for learning or nature appreciation – are particularly well represented*".

Grassland Habitat Criteria

[4] GCER (July 2015) Gloucestershire Key Wildlife Sites Handbook Part 2 v4.5 Final

4.3 Within the grassland section of the handbook (section H5 starting on page 25), there are three sub-categories:

- **H5.1.** This includes all grasslands larger than 0.5 ha which are identified as one or more of the NVC types in Table H5a (which includes community types CG3, CG4, CG5, U4, U5, MG4 and MG5) **AND** which support **15** or more species from Table H5c (which comprises a list of species occurring on grasslands of high conservation concern in Gloucestershire). **These are high priority grassland types**.

- **H5.2.** This includes areas of semi-natural grassland larger than 0.5 ha which are identified as one or more of the NVC types in Table H5b (which includes community types CG7, CG10, U1, MG1, MG6, MG9, MG10, MG11, MG12 and MG13) **AND** which support **20** or more species from Table H5c.

- **H5.3** – All semi-natural grasslands below 0.5ha which fit the description for H5.1 or H5.2 where they occur in connection with other qualifying habitats, either as a mosaic or as an adjacent patch.

4.4 Table H5c sets out a list of species occurring on grassland of high conservation concern in Gloucestershire, however no indication is given in relation to the abundance at which these species might occur in the sward. It therefore takes the simplistic view that if the species is present in the sward, that it counts towards the threshold number, even if only a single specimen is present. Therefore, a grassland with extremely low frequency of the listed species may still meet the threshold, despite it being of poor quality in all other respects (e.g. being dominated by common coarse grass species with very low coverage of herbs). This constraint is overcome to a certain extent by the grassland needing to meet the threshold number of species AND fit with one of the listed NVC plan communities AND at least one of the General Criteria, but again fitting to these NVC communities does not imply that the grassland sward is species-rich, or of high ecological value.

5. Review of the Site Against the Selection Criteria

5.1 A review of the site against the LWS selection criteria has been carried out below in relation to the grassland habitat criteria and the general criteria.

Grassland Criteria

5.2 In order to determine whether the site meets the thresholds for a KWS under the grassland habitat criteria, an NVC survey was carried out of the site in August 2020. The survey was carried out by a an experienced botanist with over 12 years' experience in carrying out botanical and NVC surveys (the surveyors CV is provided with the full survey report in Annex 5487/1). In addition to the NVC survey, a transect was walked across the entire site to identify and record a representative list of field-layer vascular plant species within the site, along with any of the species listed in Table H5c of the KWS Handbook. The abundance of each species was estimated according to the DAFOR scale. The full results of the survey are set out in Annex 5487/1 and summarised below.

5.3 Three main areas of homogenous grassland vegetation were identified within the site:

- Area A: False Oat-grass *Arrhenatherum elatius* dominant vegetation, which comprises the vast majority of the site;
- Area B: Tor-grass *Brachypodium pinnatum* dominant vegetation, which forms small stands mainly in the north of the site;
- Area C: Yorkshire-fog *Holcus lanatus* dominant grassland, which occupies a small part of the western portion of the site.

5.4 Analysis of the survey data finds that the majority of the site (Area A) is considered to have the closest affinity to NVC community MG1a, which is a grass-dominant, species-poor community typical of fields subject to infrequent management. Small areas of the grassland (Area B) are considered to represent an intermediate between MG1a and CG4c, based on the localised dominance of Tor-grass, but lack many of the calcareous species typically associated with CG4. A small part of the western portion of the site (Area C) is considered to represent a transition between MG1 and MG9, with a somewhat greater forb cover, but remains species-poor.

5.5 In all cases, the average number of species recorded per quadrat is lower than the averages for the described NVC communities, suggesting that the areas are relatively poor examples of their type.

5.6 Forb cover in the quadrats is very low at typically 5 – 10%. This reflects the habitat as a whole which is grass dominated at a cover which greatly exceeds the description of MG1(26a) in the UK Habitat Classification Field Key as "vegetation with over 50% grass cover".

5.7 A total of 12 species of local interest, according to the KWS selection criteria, were recorded within the site, which therefore falls well short of the 20 required for selection. It is understood, that records of additional KWS species are present, although these were not collected as part of systematic surveys of the site. While some early species may be present which would not have been recorded during the current survey, the absence of others being re-recorded during the current survey reflects the very small number of individuals of such species which may be present. Given that they cannot be readily re-recorded, as they are represented at such a low frequency in the sward (and they are not rare species), it follows that they contribute little to nothing to the conservation interest of the grassland. Accordingly, these species would not be expected to be recorded during snapshot surveys carried out for KWS selection. Rather, the criteria thresholds reflect numbers of indicator species which would be expected to be able to be readily recorded during KWS surveys.

General Criteria

5.8 A review has been carried out of the site against the General Criteria set out in Part 2 of the KWS selection criteria handbook. This is summarised below and set out in full in Annex 5487/2.

- **Size or Extent** – does not meet the criteria as it is small in size and does not contain any exceptional or large species populations.
- **Diversity** – does not meet the criteria as survey work has confirmed the site is not diverse beyond the context of the site itself.

- **Naturalness and Typicalness** – does not meet the criteria as it located in a suburban location and survey work has confirmed it does not contain a notable vegetation structure, notable habitats beyond the context of the site itself, a notable mosaic of habitats or support significant populations of notable species.
- **Rare or Exceptional Feature** – survey work has confirmed no rare or exceptional features are present;
- **Fragility** - survey work has confirmed the habitats within the site are not of importance beyond the context of the site i.e. below the county context, and therefore the criteria is not applicable to the site.
- **Recorded History or Cultural Associations** – not applicable as the site has not been subject to historic/long-term/traditional management practices.
- **Wildlife Corridors and Other Connected Habitats** – does not meet the criteria due to enclosure of the site by houses on three sides and a school on one side.
- **Value for Appreciation of Nature** – does not meet the criteria as there is no public access to the site and views into the site from the surrounding dwellings would be distant and obscured by trees.
- **Value for Learning** – the adjacent school does have access to the field although at the present time, little use of the grassland is made for educational purposes. Given the currently herb poor nature of the sward, it is considered that this would not be a resource the school would turn to for grassland botanical studies.

5.9 Based on the review carried out, the site does not meet any of the General Criteria.

6. Summary

6.1 A review has been carried out to determine whether the site may meet the identified criteria to qualify as a KWS. The review has been informed by survey work carried out at the site including habitat survey, botanical survey and faunal surveys.

6.2 In order to potentially qualify as a KWS, a site must meet at least one of the General Criteria set out in Part 2 of the KWS Handbook, AND, in relation to grassland sites, confirm to one of the listed NVC communities AND contain a number of listed species above a particular threshold (from a list of species occurring on grassland of highest conservation concern is Gloucestershire). Where sites may qualify on the basis of these criteria, the site is put forward to the Gloucestershire Wildlife Sites Partnership Site Selection Panel for consideration as a KWS.

6.3 The review finds that the site does not meet any of the nine General Criteria, whilst detailed botanical survey work carried out in August 2020 finds that the majority of the site is considered to have the closest affinity to NVC community MG1a, which is a grass-dominant, species-poor community typical of fields subject to infrequent management. Only 12 listed notable species were recorded and therefore the site falls well short of meeting the threshold of 20 species for MG1 grasslands. The botanical survey has been carried out by an experienced botanist with a detailed report presented. As set out in the KWS handbook Part 1 at paragraphs, 3.5 and 3.6, surveys not carried out by suitable experienced professionals should be considered to be unreliable, whilst as stated in paragraph 3.4, data acquired under trespass should be disregarded.

6.4 In conclusion, detailed botanical survey work, coupled with a review of the General Criteria finds that the site, in our opinion, does not meet the required criteria for designation as a KWS. Indeed, should it be designated it would serve to de-value the series as a whole through the inclusion of a non-key site.

Annexes:

- 5487/1 Results of August 2020 Botanical Survey Work and CV of Ecologist carrying out botanical survey work
- 5487/2 Review of the site against the General Criteria for KWS site selection

Annex 5487/1 Results of August 2020 Botanical Survey Work

aspect ecology Botanical Survey 2020

Project: Oakhurst Rise, Cheltenham

Technical Briefing Note TN09: Results of Botanical and NVC Survey

Date: 05 August 2020

Background

1. Aspect Ecology Ltd has been appointed by William Morrison to carry out a botanical and vegetation classification survey of the site at Oakhurst Rise, Cheltenham. The site is proposed for residential development and associated landscape enhancements.

Method

NVC survey

2. The National Vegetation Classification (NVC) survey was carried out using the methodology outlined in the NVC Users' Handbook (Rodwell 2006) on 1st August 2020. Firstly, a familiarisation exercise was undertaken to identify areas of homogenous vegetation. This exercise identified that one plant community dominated the site, but two other somewhat distinct communities were present at much smaller extents. Therefore, each of these three communities was sampled using quadrats.

3. There is no definitive number of quadrats required in NVC survey, although it is customary to take five quadrats from each homogenous stand of vegetation (Rodwell 2006). As the dominant

community covered a large area, ten quadrats were taken across the site, while five quadrats were taken from each of the two smaller-sized communities. Therefore, 20 quadrats were recorded in total. The quadrats were placed in areas considered to be representative of the community.

4. Each quadrat measured 2x2 m, which is the size 'almost always' used for the original NVC sampling of mesotrophic grassland (Rodwell 1992). Within each quadrat, the percentage cover of all plant species was recorded, with Domin scores of 1-3 used where cover was less than 4%. Bryophytes were included in the NVC survey, but none were noted in the quadrats. The height of the grassland sward was recorded along with a 10-figure grid reference using a GPS smartphone app, which gave an accuracy of 7 m. The NVC survey was undertaken by an ecologist with over ten years of botanical survey experience, including of grassland communities and NVC surveys throughout the UK (see Appendix 1).
5. The quadrat data was analysed and interpreted using a combination of experience and the keys and community descriptions in Rodwell (1992). The data was also analysed using the Modular Analysis of Vegetation Information System software (MAVIS version 1.04). MAVIS results were interpreted with caution and used only as an aid to identification[5]. The NVC quadrat data is presented at Appendix 2.

Botanical survey

6. In addition to the quadrat data, a transect was walked across the entire site comprising a series of parallel lines spaced 10 m apart, to record a representative list of field-layer vascular plant species within the site. The abundance of each species was estimated according to the DAFOR scale. Notes

[5] The limitations of NVC analysis software are described in the NVC Users' Handbook (Rodwell 2006), for example, "*they are no substitute for the experience of the ecologist and should never be used alone to provide identifications. Like written keys, they are simply a guide to negotiating a way around a complex classificatory landscape and to understanding variation that, in reality, is extremely complex*." (p.48)

on the distribution of each species were made where appropriate, including for those species included in Table 5Hc of the Key Wildlife Site (KWS) selection criteria. Additional species recorded from a survey by Aspect Ecology in July 2019 were added to the list where appropriate.

The species list is provided at Appendix 3.

Constraints

7. The species lists are not intended to be exhaustive but rather provide a representative list of the botanical composition of the grassland. Nevertheless, the survey covered the entire site in detail. The survey was undertaken towards the end of the optimal period of grassland botanical survey work, and as such species which appear early in the season may not have been visible. However, the species lists are bolstered by an additional survey undertaken in July 2019, which allowed recording of early species such as Pignut *Conopodium majus*.

Results and Interpretation

Overview

8. The majority of the site supported a tall, coarse grassland sward with little evidence of management in this growing season, aside of grazing by Roe Deer and a group of alpacas, which appear to be usually contained within an enclosure in the south of the site but given occasional access to the wider site. Grazing pressure was generally very low, although parts of the south of the site, near the alpaca enclosure, were more moderately grazed. The alpaca enclosure itself was noted to be very heavily grazed, with patches of bare ground throughout.

9. Three main areas of homogenous grassland vegetation were identified within the site:

    a. Area A: False Oat-grass *Arrhenatherum elatius* dominant vegetation, which comprises the vast majority of the site;

b. Area B: Tor-grass *Brachypodium pinnatum* dominant vegetation, which forms small stands mainly in the north of the site;

c. Area C: Yorkshire-fog *Holcus lanatus* dominant grassland, which occupies a small part of the western field.

10. In addition, small patches of Tufted Hair-grass *Deschampsia cespitosa* dominant vegetation were recorded, particularly in small hollows in the northern part of the western field, and along parts of the southern site margin. This vegetation was insufficient in extent to record quadrats, but is likely to represent the MG9 NVC community.

11. Each of the three main vegetation types is described in the following sections, followed by a discussion of the KWS selection criteria.

False Oat-grass vegetation (Area A)

12. Area A occupies the vast majority of the site, and therefore ten quadrats were taken to investigate any variability in this vegetation type across the site. The area was characterised by a dominance of False Oat-grass, which was recorded in all ten quadrats with a frequency of 35% to 95%. Other constant species included Creeping Bent *Agrostis stolonifera* and Red Fescue *Festuca rubra*, which formed a mat of vegetation below the taller grasses, and were recorded in nine and eight of the ten quadrats respectively. Yorkshire-fog and Common Sorrel *Rumex acetosa* were recorded in all ten quadrats.

13. Forb species were notably infrequent in the quadrats, generally occupying 5% to 10% of the coverage. Aside of Common Sorrel, the only species which occurred frequently were Meadow Vetchling *Lathyrus pratensis* and Bird's-foot Trefoil *Lotus corniculatus*, recorded in six and two of the ten quadrats, respectively.

14. Based on surveyor experience and following the keys in Rodwell (1992), this area is considered to have the closest affinity to MG1a *Arrhenatherum elatius* grassland, *Festuca rubra* sub-community. This is a grass-dominated community characterised by abundant False Oat-grass over Red Fescue.

15. Analysis of the quadrat data using the MAVIS software identified MG9 *Holcus lanatusDeschampsia cespitosa* as the best matching community for this area (Table 1). Based on experience, MG9 is often returned where Yorkshire-fog is constant, but in this case is not considered to closely match the vegetation on site due to the scarcity of Tufted Hair-grass, which is very characteristic of MG9. The next highest matching sub-communities were MG1c and MG1a.

MG1c is a damper community characterised by constant Meadowsweet *FIlipendula ulmaria*, which was not recorded during the survey. Nevertheless, a similar score was returned for MG1a. The average number of species per quadrat was 9 (Table 1 and Appendix 2), compared to the average of 12 for the described sub-community (Rodwell 1992).

Tor-grass vegetation (Area B)

16. Area B occupies several small stands across the site, mostly occupying patches of 25 to 100 m[6], although two slightly larger areas were noted around quadrats 1 and 7. This vegetation is similar in structure and community composition to Area A, except that Tor-grass replaces False Oat-grass as the dominant species. Tor-grass was recorded in all five quadrats, with a frequency of between 70% and 80%, while False Oat-grass dropped in frequency with a maximum coverage of 20%. As in Area A, Creeping Bent and Red Fescue occupied the ground layer below the taller grasses, and were recorded in all five quadrats. Sweet Vernal-grass *Anthoxanthum odoratum* and Yorkshirefog were also recorded in all five quadrats. Forb species were similar to those recorded in Area A, including constant Common Sorrel with more occasional Meadow Vetchling and Bird's-foot Trefoil.

17. Due to the prevalence of Tor-grass, this area has some affinity to the CG4 *Brachypodium pinnatum* community, particularly the *Holcus lanatus* sub-community (CG4c), which is a more mesotrophic example of this calcareous community. However, the area lacks some characteristic species of the

[6] '*stands of vegetation intermediate in composition and structure between two (or more) NVC plant communities are commonly encountered in the field*' (Rodwell 2006)

community such as Sheep's Fescue *Festuca ovina*, possibly due to its small size which limits opportunities for colonisation by more calcareous species. Instead, False Oat-grass remains prevalent, recorded in four of the five quadrats, while Red Fescue was constant. These two species are more characteristic of MG1a. Therefore, the area is considered to represent an intermediate between MG1a and CG4c. Intermediates are commonly encountered in NVC survey[2].

18. The MAVIS software provided unclear results for this area, with maritime cliff communities scoring highest, followed by MG9b and MG1e (Table 1), indicating the mesotrophic nature of the grassland. The species richness of quadrats averaged 9.6 (Table 1), compared to an average of 16 for CG4c (Rodwell 1992).

Yorkshire-fog vegetation (Area C)

19. Area C was recorded in one patch in the centre of the western field, and is characterised by a slightly shorter sward height with a reduced frequency of False Oat-grass compared to Area A. Yorkshire-fog was recorded as the dominant grass, with Sweet Vernal-grass and Creeping Bent also recorded in all five quadrats. The forb cover was somewhat higher in these quadrats, up to 15%, mostly attributable to Meadow Vetchling.

20. The area has some affinities with both the MG1a and MG9 communities. MG9 scored highly in the MAVIS analysis (Table 1), while the keys in Rodwell (1992) led to MG1a. Tufted Hair-grass, which is characteristic of MG9, was not recorded in any of the quadrats but was noted elsewhere. The MG4 *Alopecurus pratensis-Sanguisorba officinalis* community also scored highly, and although there are some affinities with this community, the area lacks the species richness and herbaceous cover typically associated with MG4, with an average of nine species per quadrat (Table 1). This area is therefore considered to represent an intermediate between MG1a and MG9.

Table 1. Summary of NVC survey results. NVC keys refer to Rodwell (1992). The MAVIS software output only includes grassland communities.

Area	Community considered to have closest affinity	Outcome of NVC keys	MAVIS output	Species richness (mean average and range)
A	MG1a	MG1a	MG9b: 56.6% MG9: 53.3% MG1c: 50.0% MG1a: 49.6% MG4c: 47.2%	9 (7-11)
B	MG1a / CG4c intermediate	MG1a or CG4c	MG9b: 44.3% MG1e: 43.5% MG12a: 41.2%	9.6 (8-13)
C	MG1a / MG9 intermediate	MG1a	MG9: 52.6% MG4c: 51.3% MG9b: 50.4% MG9a: 45.8% MG1c: 45.8%	9 (7-11)

Conclusion

21. The majority of the site (Area A) is considered to have the closest affinity to MG1a, which is a grass-dominant, species-poor community typical of fields subject to infrequent management. Small areas of the grassland (Area B) are considered to represent an intermediate between MG1a and CG4c, based on the localised dominance of Tor-grass, but lack many of the calcareous species typically associated with CG4. A small part of the western field (Area C) is considered to represent a transition between MG1 and MG9, with a somewhat greater forb cover, but remains speciespoor. In all cases, the sward is seen to be grass dominated (mostly 90 – 95% with a low herb cover 5 – 10%) while the average number of species recorded per quadrat is lower than the averages for the described NVC communities, suggesting that the areas are relatively poor examples of the communities.

References

Rodwell JS (ed.) (1992) *British Plant Communities Volume 3: Grasslands and Montane Communities.* Cambridge University Press, Cambridge.

Rodwell JS (2006) *National Vegetation Classification: Users' Handbook.* Joint Nature Conservation

Committee, Peterborough.

Plan 5487/NVC:

NVC communities and quadrat distribution

Key:

- Site Boundary
- Area A (False Oat-grass dominant: MG1a)
- Area B (Tor grass dominant: intermediate between MG1a and CG4c)
- Area C (Yorkshire-fog dominant: intermediate between MG1a and MG9)
- Alpaca enclosure
- (1) Quadrat location

0 10 20 30 40 m

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Oakhurst Rise, Cheltanham	PROJECT
NVC communities and quadrat distribution	TITLE
5487/NVC	DRAWING NO.
-	REV
July 2020	DATE

Appendix 5487/1:

CV of botanist: Tom Staton

aspect ecology

Tom Staton

Principal Ecologist

Personal Profile

Tom is an Ecologist with over 12 years of experience and a MSc in Biological Recording, with an expert knowledge of the UK's habitats, flora and fauna. He has extensive experience in carrying out ecological survey work, designing and leading surveys, report writing, designing and delivering mitigation, project management, staff management and liaison with clients and stakeholders on a wide variety of projects. Tom holds Natural England licenses for bats, Dormouse, Great Crested Newt and Smooth Snake. Tom specialises in botanical survey and assessment and has excellent plant identification skills and an expert knowledge of UK habitat classification and assessment, including use of the National Vegetation Classification (NVC) survey.

- Specialist in carrying out botanical survey work in all UK habitats, with particular expertise in grassland, woodland, and Open Mosaic Habitats on previously developed land.

Qualifications / Accreditations

- Full Member of the Chartered Institute for Ecology and Environmental Management (MCIEEM)

Key Skills and Expertise

- Extensive experience of carrying more detailed and specialist botanical survey and habitat classification, such as NVC surveys.
- Excellent plant identification skills and essential associated knowledge, such as indicator species for specific soil types, management regimes and Priority Habitats.
- Regularly analyses survey data to assess and classify habitat types (e.g. by use of MAVIS) in order to produce high quality survey reports and

  detailed Management Plans across a range of habitats including grassland.

Professional Memberships

- PhD in Agro-ecology (in progress), Reading University
- MSc Biological Recording (Distinction)
- BSc (Hons) Biology with placement (First Class)
- CS38 – Tree Climbing and Aerial Rescue

Years of Technical Experience

12 years

Project Profiles

- **Echoraise Quarry, Kent**: Carried out NVC surveys of woodland and grassland in order to classify the habitat types present within a former quarry in order to inform a plan for its restoration following additional sand and gravel extraction works. Produced a survey report, 5 year Restoration Plan appropriate to the habitats identified, and a 20 year Management Plan.
- **Thames Enterprise Park, Thurrock**: Carried out detailed surveys of areas of Open Mosaic Habitat in order to determine areas of greater and lesser value habitat. Designed a bespoke mitigation package to ensure an overall net gain in OMH across the 200ha development site.

- **Holland Road, Hurst Green**: Carried out NVC surveys of a series of grassland fields in order to classify the grassland community types present and determine their ecological value in order to inform a potential allocation of the site in the Local Plan.
- **Sheffield Motorway Service Area**: Carried out NVC surveys of woodland and grassland to inform the layout for a proposed new motorway service area.
- **Snod Coppice, nr Shrewsbury:** Undertook detailed survey work and prepared an ES chapter for proposed poultry sheds affecting ancient woodland. Tom led a detailed survey of the woodland, including the mapping of ancient woodland plant indicator species (1a), to inform the scheme design in consultation with the design team.

- **Thames Oilport, Thurrock:** Carried out botanical surveys of grassland, and classified and evaluated different areas of OMH in order to inform proposals to bring a disused diesel tank bund back into use. That habitats were located at a coastal location and adjacent to a SSSI and SAC and so a survey for notable/rare species was also carried out.
- **The Grove Hotel, Chandlers Cross:** Carried out a botanical survey of the ground flora of an ancient woodland to inform an assessment of feasibility to install glamping units within the woodland. The survey involved identifying and mapping ancient woodland vascular plants (as defined in the list published for the south of England) to allow any variation in the ecological quality of the woodland to be mapped to a high level of precision, to inform design constraints.
- **Little Preston, Aylesford:** Carried out a botanical survey of the ground flora of a woodland mapped as ancient adjacent to a quarry to inform an assessment of feasibility of development. The survey involved identifying and mapping ancient woodland indicator species, which, coupled with an assessment of the tree canopy was used to determine whether the mapped woodland was indeed ancient.

Appendix 5487/2:

NVC quadrat data

Appendix 2. NVC quadrat data. Numbers for each species refer to percentage cover (which can exceed 100% due to vegetation layering). Community reference letters refer to the descriptions in the text and are colour-coded.

Quadrats		Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Q20
Community reference		B	A	A	A	A	A	B	A	A	B	A	B	A	B	A	C	C	C	C	C
OS grid reference		SO96604 21578	SO96552 21590	SO96448 21656	SO96412 21567	SO96462 21556	SO96483 21607	SO96493 21632	SO96525 21680	SO96545 21643	SO96577 21637	SO96601 21632	SO96609 21603	SO96576 21559	SO96547 21605	SO96413 21609	SO96430 21621	SO96425 21618	SO96422 21604	SO96430 21595	SO96426 21596
Maximum sward height (cm)		70	80	80	70	80	80	70	80	80	70	90	80	90	70	80	60	60	70	60	60
Grass % cover		90	90	95	95	95	95	90	95	95	90	95	80	95	90	95	90	85	90	85	90
Forb % cover		10	10	5	5	5	5	10	5	5	10	5	20	5	10	5	10	15	10	15	10
Species	Vernacular																				
Agrostis stolonifera	Creeping Bent	10	25	30	40	40	40	15	30	40	15		10	10	25	10	30	30	30	20	10
Alopecurus pratensis	Meadow Foxtail		5	5			20					5		1		2			1		
Anthoxanthum odoratum	Sweet Vernal-grass	5	10	10	5	20	30	20	15	5	5		10		5		30	10	10	20	10
Arrhenatherum elatius	False Oat-grass	20	80	70	50	40	35	10	50	80	20	90	10	95		60			10	5	
Brachypodium pinnatum	Tor-grass	70	5					85			80		80	5	80						
Dactylis glomerata	Cock's-foot		5	1					1			5	5			2		1			1
Festuca rubra	Red Fescue	5		20		20	15	10	20	20	5	30	20	20	10	20	10	10	10		
Galium verum	Lady's Bedstraw		5										20								
Geranium dissectum	Cut-leaved Cranesbill																				1
Helictotrichon pratense	Meadow Oat-grass					1															
Heracleum sphondylium	Hogweed					1					1	1	1	1	2				2		1
Holcus lanatus	Yorkshire-fog	10	5	30	40	30	20	10	40	20	5	15	5	5	10	40	60	70	80	70	70
Lathyrus pratensis	Meadow Vetchling	10	5	5	5	1	2				1	1	1			1	15	20	10	2	10
Lolium perenne	Perennial Rye-grass																1			5	1
Lotus corniculatus	Bird's-foot Trefoil				15	2		10			5		5		10					15	
Lotus pedunculatus	Greater Bird's-foot Trefoil						5														
Phleum pratense	Timothy																				5
Plantago lanceolata	Ribwort Plantain		1						1				1	1							
Potentilla cf. x mixta	Hybrid Cinquefoil																		1		
Quercus robur	Pedunculate Oak (seedling)									1											
Ranunculus acris	Meadow Buttercup				5				1							1	1		1		
Rumex acetosa	Common Sorrel	2	15	2	2	5	2	5	2	5	5	5	2	5	2	2		1	1	1	1
Rumex conglomeratus	Clustered Dock																				1
Veronica chamaedrys	Germander Speedwell							1													
Vicia sepium	Bush Vetch								2											5	
Total number of species		8	11	9	8	10	9	9	10	7	10	8	13	9	8	9	7	7	11	9	11

Appendix 5487/3:

Grassland species list

Appendix 3. List of field layer plant species recorded within the site. Species included in Table H5c of the Key Wildlife Site selection criteria are marked in bold. Abundance values refer to the DAFOR scale, where D = dominant, A = abundant, F = frequent, O = occasional, R = rare, and a preceding 'L' refers to localised abundance.

Species	**Vernacular**	**Abundance**	**Comments**
Grasses, sedges and rushes			
Agrostis stolonifera	Creeping Bent	A	
Alopecurus pratensis	Meadow Foxtail	O	
Anthoxanthum odoratum	Sweet Vernal-grass	F	
Arrhenatherum elatius	False Oat-grass	D	
Brachypodium pinnatum	Tor-grass	LA	
Brachypodium sylvaticum	Wood False-brome	O	Recorded under tree cover
Bromus erectus	Upright Brome	R	
Calamagrostis epigejos	Wood Small-Reed	R	
Carex pendula	Pendulous Sedge	R	Single specimen noted adjacent to garden along the northern boundary, possible garden escape
Dactylis glomerata	Cock's-foot	O	
Deschampsia cespitosa	Tufted Hair-grass	O	
Festuca arundinacea	Tall Fescue	O	Only recorded in 2019
Festuca rubra	Red Fescue	F	
Helictotrichon pratense	**Meadow Oat-grass**	**R**	**Recorded in quadrat 5 at SO96462 21556, but could be under-recorded**
Holcus lanatus	Yorkshire-fog	F-A	
Hordeum secalinum	Meadow Barley	R	
Juncus conglomeratus	Compact Rush	R	
Lolium perenne	Perennial Rye-grass	O	
Luzula campestris	**Field Woodrush**	**R**	**Single specimen noted at SO96460 21550, could be more frequent earlier in the season**
Phleum pratense	Timothy	O	
Poa annua	Annual Meadow-grass	O	Only recorded in 2019
Poa pratensis	Smooth Meadow-grass	O	
Poa trivialis	Rough Meadow-grass	O	
Broadleaved herbs and other species			
Alliaria petiolata	Garlic Mustard	O	Recorded under or near tree cover
Arum maculatum	Lords-and-Ladies	R	
Bellis perennis	Daisy	O	Only recorded in 2019
Centaurea nigra	**Common Knapweed**	**R-O**	**Several small patches recorded near the in-field Oak tree in the eastern part of the site**
Circaea lutetiana	Enchanter's Nightshade	R	Only recorded under trees in the south-east corner of the site
Cirsium arvense	Creeping Thistle	O-LA	
Cirsium vulgare	Spear Thistle	R	
Conopodium majus	**Pignut**	**F**	**Only recorded in 2019 (spring species)**
Dryopteris filix-mas	Male Fern	R	Under an Oak along the northern boundary
Epilobium hirsutum	Great Willowherb	R	Single specimen noted adjacent to garden

Epilobium parviflorum	Hoary Willowherb	R	Under the in-field Oak in the eastern part of the site
Euphorbia peplus	Petty Spurge	R	Recorded on disturbed ground in proximity to the tree belt
Galium aparine	Cleavers	R	Mainly recorded at field margins
Galium verum	**Lady's Bedstraw**	**O-LF**	**Mainly to the north and east of the in-field Oak tree, in the eastern part of the site**
Geranium dissectum	Cut-leaved Cranesbill	O	
Geranium molle	Dove's-foot Cranesbill	R	
Geranium robertianum	Herb-Robert	R	Recorded under or near tree cover

Geum urbanum	Wood Avens	O	Mainly under tree cover
Glechoma hederacea	Ground-ivy	R	Recorded under or near tree cover
Hedera helix	Ivy	LF	Recorded under or near tree cover
Heracleum sphondylium	Hogweed	O	
Hieracium agg.	Hawkweed	R	Recorded near the tree belt
Hypochaeris radicata	**Common Cat's-ear**	**O**	**Recorded in the northern part of the site, near field edges**
Iris foetidissima	Stinking Iris	R	Single specimen noted under trees in the south-east corner of the site
Lapsana communis	Nipplewort	R	
Lathyrus pratensis	**Meadow Vetchling**	**F**	**Almost ubiquitous across the site, but mostly at low frequency in the sward**
Leucanthemum vulgare	**Oxeye Daisy**	**R**	**Only recorded in 2019**
Linaria purpurea	Purple Toadflax	R	One specimen recorded along eastern margin
Lotus corniculatus	**Bird's-foot Trefoil**	**O-F**	**Recorded sporadically throughout the site**
Lotus pedunculatus	**Greater Bird's-foot Trefoil**	**O**	**Recorded in damper areas at SO96490 21611, SO96566 21540, and along eastern part of the southern site margin. Notably less frequent than *Lotus corniculatus* .**
Malva moschata	Musk-mallow	R	Single specimen noted in proximity to the eastern boundary
Medicago lupulina	Black Medick	R	
Papaver somniferum	Opium Poppy	R	In the tree belt, towards the southern boundary
Plantago lanceolata	Ribwort Plantain	O	
Polygonum aviculare	Common Knotgrass	R	
Potentilla cf. x *mixta*	Hybrid Cinquefoil	O	Provisional identification based on vegetative characteristics. Mixture of 3 and 5 leaflets.
Quercus robur	Pedunculate Oak (seedling)	R	
Ranunculus acris	Meadow Buttercup	O	
Ranunculus bulbosus	**Bulbous Buttercup**	**R**	**Single specimen noted at SO96485 21601. Could be under-recorded to some extent, but much less frequent than other *Ranunculus* species recorded.**
Ranunculus repens	Creeping Buttercup	O	

Rubus fruticosus agg.	Bramble	LF	Around tree cover with minor encroachment into the fields
Rumex acetosa	Common Sorrel	F	
Rumex conglomeratus	Clustered Dock	O	
Rumex obtusifolius	Broadleaved Dock	R	
Sonchus asper	Prickly Sow-thistle	R	One specimen recorded along eastern margin
Stachys sylvatica	Hedge Woundwort	R	Recorded near tree cover
Tanacetum parthenium	Feverfew	R	In the tree belt, towards the southern boundary
Taraxacum agg.	Dandelion	R	
Tragopogon pratensis	**Goat's-beard**	**R**	**Recorded in two locations: SO96621 21610 and SO96574 21571**
Trifolium pratense	Red Clover	R	
Trifolium repens	White Clover	R	
Urtica dioica	Common Nettle	O	Mainly recorded at field margins
Veronica chamaedrys	Germander Speedwell	R	
Vicia hirsuta	Hairy Tare	R	Only recorded in 2019
Vicia sativa	Common Vetch	O	Only recorded in 2019
Vicia sepium	Bush Vetch	O	
Vicia tetrasperma	Smooth Tare	R	Only recorded in 2019

Annex 5487/2 Review of the Site Against the General Criteria

1005487 TN08 Review of KWS Criteria

General Criteria Category	Criteria Checklist (from KWS handbook Part 2)	Review of Site against the criteria
Size or Extent	*a. The site is an exceptionally large area of an important natural or seminatural habitat e.g. the largest in the county, or the largest within a distinct region of the county* *b. The site supports an exceptionally large and/or thriving population of an important species (as defined in the Species Criteria)* *c. The site supports a high proportion of the total area of an important habitat or the total numbers of an important species in the county and/or in a wider national or international context*	The site is small in size at approx. 3.9ha and is set in a suburban environment surrounded by residential properties and a school. It therefore does not comprise an exceptionally large area (such as the largest in the county or distinct region of the county), whilst survey work has also confirmed it does not comprise important natural or semi-natural habitat. The survey work carried out at the site has included a full suite of botanical and faunal surveys and these have not recorded any "large or thriving populations of important species", and would therefore not meet the criteria under point b. Correspondingly, the site would therefore also not qualify under point c. Accordingly, the site is not considered to meet the criteria to qualify under this general category.
Diversity	*a. The site contains many of the typical species and assemblages - including stages of succession, subtypes and variations - for which a habitat type is considered important* *b. The site contains the majority of species typical of the habitat as it is found in the county in its most favourable condition* *c. The site contains a range of semi-natural habitats in close proximity* *d. A range of successional stages of habitat development are present on the site* *e. The habitats present exhibit a wide range of natural structural diversity*	The site comprises a semi-improved grassland field partially separated by a hedgerow with trees. A hedgerow with trees is present on the western boundary and a small number of isolated hedgerows are present on the other boundaries. Small areas of scrub are present and a pond is present on the northern boundary of the site. Survey work has confirmed the grassland is not notable or diverse, either in terms of its species richness or structural diversity (such as having a variety of different sward lengths, tussocky areas etc.). Accordingly, the site is not considered to meet the criteria to qualify under this general category.

Naturalness and Typicalness	*a. Compared with other examples in the county, the habitat present is notable for its lack of human disturbance, introduced plant or animal species, mechanical damage, litter, agricultural spray drift or other factors which could adversely affect the vegetation structure and/or species composition of the community*	The site is located in a suburban location and survey work has confirmed it does not contain a notable vegetation structure, notable habitats beyond the context of the site itself, a notable mosaic of habitats or support significant populations of notable species. The KWS Handbook notes that in relation to this category, site protection is more likely to be considered a priority if the habitats involved are considered to be unusually pristine examples, exceptionally diverse, a recognised locally distinctive type, or impossible to

	b. The site is an excellent representative of a habitat or species population that forms a distinctive element of Gloucestershire's biodiversity *c. The site represents an excellent example of a mosaic of associated habitats typical of Gloucestershire, e.g. floodplain grazing marsh, traditional orchards, species-rich hedgerows*	restore once degraded or lost. None of these points would be applicable to the habitats recorded within the site during the survey work. Accordingly, the site is not considered to meet the criteria to qualify under this general category.
Rare or Exceptional Feature	*a. The habitats and/or species present are rare, either in an international, national or county context* *b. The site is the only example of a particular habitat sub-type or variation that cannot be protected elsewhere in the county* *c. the scientific interest of the site is dependent on a rare or unique combination of site-related factors such as geology, aspect, soil type, microclimate, hydrology or altitude Consequently, if the site was damaged or destroyed, the habitat and species communities present would be irreplaceable to the county d. the site supports habitats or species which are on the very edge of their natural range*	Survey work has confirmed that none of these points would be applicable to the site.
Fragility	*a. The habitats and/or species present are fragile or vulnerable to loss, damage or exploitation, either in an international, national or county context*	Survey work has confirmed the habitats within the site are not of importance beyond the context of the site i.e. below the county context, and therefore the fragility criteria is not applicable to the site.

Recorded or History Cultural Associations	*a. The nature conservation interest of the site is dependent on a rare or unique combination of historical factors such as long-term land use and management patterns* *b. the habitats and species present have become established over a very long period of time and consequently represent a limited resource in the county, as they could not be replaced or substituted* *c. The site is a particularly good example of the positive influence of longestablished cultural practice on biodiversity* *d. the site in question has exceptional potential for education and/or public appreciation of nature due to its longstanding recorded history*	It is not considered any of these points are of relevance to the site, as it has not been subject to historic/long-term/traditional management practices.

Wildlife Corridors and Other Connected Habitat	*a. The site forms part of an important, larger ecological unit which would be reduced in value as a whole if the site was damaged or destroyed* *b. The site forms a vital part of a sequence of habitats all of which are required in order to conserve a key population of an important species (e.g. semi-aquatic invertebrates)* *c. The site contributes significantly to a landscape-scale "corridor" of habitat(s) to enable species to adapt/move in response to climate change*	The site is located in a suburban setting and is surrounded on three sides by residential development. It therefore does not contribute to any form of wider landscape corridor, or function as part of a larger ecological unit. The north-south hedgerows with trees within the site form the northern portion of longer linear features which extend off-site to the south and run through the school. Beyond the school to the south is further residential development, and therefore even when taken together, these linear features do not connect with the wider landscape and are therefore isolated in nature. Accordingly, the site is not considered to meet the criteria to qualify under this general category.

Value for Appreciation of Nature	*a. Three or more of the following factors apply:* *- The site is adjacent to, or overlooked by, a residential area* *- There are well-used footpaths/cycleways/bridleways providing access to the site (official or permissive)* *- The site and its features of interest are accessible to people who are physically disabled* *- There is space to park at, or within easy walking distance of, the site* *- There is a local 'friends' type group concerned with beneficial conservation management on the site* *- The site is used by community groups* *b. There is a well-established history of community involvement with positive nature conservation management of the site*	The site is surrounded on three sides by residential properties, with the site beyond the rear gardens and therefore some distance from the houses. There may be some views of the site from residential properties, albeit these may be distant and/or obscured by trees. The site does not meet any other criteria in point a, or for point b. There are no Public Rights of Way (PRoW) running around or through the site and therefore it is not accessible to the public at all. Accordingly, the site is not considered to meet the criteria to qualify under this general category.
Value for Learning	*a. The site provides the best or only Gloucestershire example of a situation where a threatened or declining habitat or species of high nature conservation interest for which there is a research need may effectively be studied* *b. The site has one or more features of nature conservation importance that would not ordinarily qualify for KWS or SSSI selection, but which are known to be declining or having to adapt due to factors which cannot be prevented, and for which research over the medium or long term is crucial for the success of conservation efforts elsewhere*	Based on the survey work carried out, no features are present within the site which could be regarded as having any research need / need for further study which might benefit other habitats or features in the County. The southern boundary of the site is located adjacent to St Edward's Preparatory School. The school does have access to the field although at the present time, little use of the grassland is made for educational purposes. Given the currently herb poor nature of the sward, it is considered that this would not be a resource the school would turn to for grassland botanical studies.
	c. The site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance	Accordingly, the site is considered unlikely to meet the criteria to qualify under this general category.

Appendix 2:

Correspondence from Aspect Ecology to Gloucestershire Wildlife Trust dated 07 August 2020

Our ref: 1005487/011.let.GWT.jh

Aspect Ecology Ltd
West Court
Hardwick Business Park
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Banbury
Oxfordshire
OX16 2AF

T: 01295 279721
E: info@aspect-ecology.com
W: www.aspect-ecology.com

07 August 2020

Dr Juliet Hynes
Nature Recovery Network Coordinator
Gloucestershire Wildlife Trust
Conservation Centre
Robinswood Hill Country Park

Reservoir Road
Gloucester
GL4 6SX

Sent By E-Mail Only

Dear Juliet,

LAND OFF OAKHURST RISE, CHELTENHAM: CONSIDERATION OF GRASSLAND FOR KWS DESIGNATION

Thank you for taking the time to meet to review the grassland on site. I set out below a summary of some of the comments I raised during our meeting which may be a helpful record to assist in drafting your response to the KWS application.

Criteria

The criteria for grassland selection are unusual in that they do not relate the required species number for designation to an area. For example, it is normal to express species thresholds in terms of their cover per m2 (unless dealing with rare species). This is how the NVC works in selecting community types for example, as does the new UK Habitat Classification system. Accordingly, when assessing a potential KWS, it is necessary to apply this parameter via observation. Herb rich meadows, in terms of frequency and constancy of a range of indicator herb species in the sward, are typically of elevated value, while those which are herb poor are not. I would refer you to Appendix 2 of Aspect Ecology's Botanical Survey 2020 (copy enclosed within Technical Note TN08) of the grassland at the site, which records typical grass cover values of mostly 90 – 95% and a typical herb cover of 5 – 10%. The survey also notes that the number of species recorded per quadrat is lower than the averages for the described NVC communities, illustrating that the identified areas of grassland are relatively poor examples of their type.

Data collection

Aspect Ecology has provided a report of a systematic survey of the site which records species occurrence and presents the results in a standard manner using recognised techniques and analysis e.g. NVC and DAFOR. Accordingly, there can be high confidence attached to the data.

No such survey report has been presented by Charlton Kings Friends (CKF/FOCK) / Bioscan, but rather only a table of species on the KWS selection list at Table H5c of the Part 2 KWS criteria are put forward. There is no record of how the data have been collected, when they were collected, by what method,

by who (by professional ecologists or members of the public), their qualifications and botanical experience or where the species lie on the site or their frequency. Accordingly, there can only be low confidence attached to the data.

KWS Species count

CKF report that 21 species have been recorded on the site. Of these species it is pertinent to make the following observations. Bluebell, Primrose and Barren Strawberry are likely closely associated with the hedgerows and marginal woody vegetation at the site rather than the grassland. The BSBI online Atlas of the British Flora[7] describes them as follows:

No.	Species	BSBI account of species ecology
1	Bluebell	A bulbous perennial herb occurring, sometimes abundantly, in a wide variety of deciduous woodlands, in hedgerows, on shady banks and, especially in western and upland areas, in meadows, under Pteridium and on cliffs. It also occurs as a naturalised garden escape. It is sensitive to long-term grazing. Generally lowland, but reaching 685 m on Craig-yr-Ysfa (Caerns.).
2	Barren Strawberry	A perennial herb of relatively infertile, dry but not droughted soils in open woods, woodland margins, scrub, grassy hedge banks and rock crevices; also occasionally in meadows and on walls. In the lowlands it is usually found in partially shaded sites but it extends into open habitats in upland areas. 0-790 m (Helvellyn, Cumberland).
3	Primrose	An evergreen, or sometimes aestivating, perennial herb typical of sites shaded from hot sun, found in woodland, on N.-facing banks, in hedgerows, coastal slopes and shaded montane cliffs. Reproduction is by seed, which is usually dispersed by ants. 0-850 m (Mt Brandon, S. Kerry).

This is also likely to be the case, albeit potentially to a lesser extent, for Common Dog Violet. The BSBI online Atlas of the British Flora describes it as follows:

No.	Species	BSBI account of species ecology
4	Common Dog Violet	This perennial herb occurs in a wide range of habitats, including open deciduous woodland, hedge banks and road verges, meadows, heaths, moorland, mountain grassland, rocky slopes and cliff ledges; it can become a serious weed in gardens. It avoids wet areas but is generally indifferent to soil type, shunning only the most acidic habitats. 0-1020 m (Stuchd an Lochain, Mid Perth).

We would also note that the Aspect Ecology survey recorded the presence of Hybrid Cinquefoil and there is the possibility that the identification of Barren Strawberry could be confused with Hybrid Cinquefoil as they are superficially similar. This could also be the case with Yellow Oat Grass (present

[7] https://www.brc.ac.uk/plantatlas/

on the CKF list) and Meadow Oat Grass (recorded by Aspect Ecology), albeit these are more readily distinguished.

Accordingly, taking into account the above observations, the CKF list of 21 species should be reduced to 17 in number.

Moreover, Aspect Ecology's Botanical Survey 2020 (copy enclosed within Technical Note TN08) recorded only 12 KWS species as present, and while some early flowering species may have been

missed, it is concluded that should other species be present in the sward, they are represented at such a low frequency that they cannot be readily re-recorded and accordingly contribute little to nothing to the conservation interest of the grassland.

KWSs are Special

The purpose of designating Wildlife Sites is to capture habitats which are special in terms of their ecological quality. If this were not the case, low value habitats could be designated. Special meadows typically are those with a high herb content, which the public would describe as "full of flowers". In turn these provide rich pollen and nectar sources which support a range of invertebrates, with butterflies being a particularly charismatic group which the public enjoy.

The grassland at Oakhurst Rise does not support the above characteristics due to the low frequency and constancy of herbs in the sward (typically 5 – 10% - see Appendix 2 of Aspect Ecology's enclosed Botanical Survey 2020 survey within TN08). Accordingly, if the grassland were to be designated as a KWS, any Wildlife Trust members visiting would likely be disappointed by what they found, as the grassland does not possess these special features, it being rather ordinary in nature. This reflects the fact that MG1 is a common grassland type, with the grassland on the site representing a species poor example of its type. To designate such sites would de-value the KWS network.

In this regard, the grassland does not represent 'Priority habitat – lowland meadow' or 'unimproved grassland' as stated on the 'Gloucestershire Key Wildlife Site Assessment Sheet' submitted by CKF / Bioscan, as Priority habitat lowland meadow requires the presence of an MG5 NVC community.

Qualification as a KWS

From the above review finds, it is our view that the grassland falls short of possessing the necessary ecological interest required for qualification for KWS designation. It therefore should not be designated, as to do so would de-value the series.

Protection

No protection is afforded to KWSs and accordingly there is a risk that a change in management could result in the loss of any interest present. For example, this could include application of herbicide, fertilizer, re-seeding or other inappropriate management. Accordingly, the future of such sites is not secure, which is a key consideration for planning.

Restorability

Restoration of any grassland is possible towards a community type of increased botanical interest. However, in most cases, including at Oakhurst Rise, there is no realistic mechanism that will come forward to enable this, save for a development proposal. In addition, while the grassland may in the past have been of increased botanical interest, this has been lost a considerable time ago and the seed bank may no longer be present or viable to enable restoration, without intervention e.g. importation of seed. Soil sampling on site around trees has shown the activated zones with increased levels of desirable soil fungi, bacteria and nematodes are limited to the areas beneath tree canopies and do not extend into the grassland, which appears to also be suffering from compaction issues.

Management

At the present time, positive conservation management is not secured and inappropriate management may occur e.g. cutting of the grass and the leaving of the arisings in place. There is no realistic prospect of securing beneficial conservation management, save via a development proposal.

Development proposals

The development proposals represent an opportunity to secure the future of the grassland interest. While an area will be lost to the proposals, a substantial area (~1.9ha) will retained and enhanced. In particular the development will:

- **Secure future**: The future of the grassland will be secured and protected such that the risk that its interest would be lost through inappropriate management e.g. application of herbicide, fertilizer or re-seeding would be removed;
- **Restoration**: Positive work would be carried out to restore the grassland interest to that of a meadow of high conservation value e.g. MG5. The detail of how this would be achieved would be the subject of a specific method statement, but could include the scarification of the sward to expose the underlying seedbank and soil and the import of green hay from a suitable local donor meadow if one is available or alternatively the spreading of an appropriate native wildflower seed mix with a large Yellow Rattle component to reduce the vigour of coarse grasses;
- **Conservation management**: Favourable grassland conservation management would be secured under the proposals which would be prescribed within a formal management plan. This would then be actioned to ensure the management of the grassland is optimal to maintain the restored botanical interest;
- **Long term funding**: Funding to manage the meadow would be secured under the proposals. This would most likely arise via a service charge on properties such that an assured source of funding for conservation management of the grassland would be available for the life of the development.

The resulting meadow would be herb rich and full of colour such that local residents and Wildlife Trust members would value it. The resulting pollen and nectar sources would be considerably increased with the consequence that invertebrate interests would also increase significantly, including highly visible groups such as butterflies and moths. The grassland would be patrolled by dragonflies from the proposed pond while small mammals, reptiles, amphibians, birds and bats would be attracted to the restored meadow.

At the present time, little use of the grassland is made for educational purposes by the adjacent school. However, under the proposals, much of the enhanced grassland will remain leased to the school

allowing them full access to it in the future. The botanical and faunal interests will be much more readily visible which would provide an accessible resource for nature studies / biology classes.

Elsewhere in the development, faunal enhancements will also be introduced such as in the form of the installation of enhancements targeted to specific species groups including bat boxes, bird boxes, and buried log piles; the creation of a dedicated organic material composting area in the vicinity of the new pond to provide an area suitable for Grass Snake egg laying; a proposed pond will hold water providing constant habitat for aquatic species and incorporate shallow drawn down zones, which are areas of high biodiversity potential due to seasonal changes in water level.

Summary and Conclusion

The species identified by CKF do not appear to arise from a formal survey and hence there is no record of how the data has been collected, when they were collected, by what method, by who, their qualifications and botanical experience or where the species lie or their frequency. Accordingly, there can only be low confidence in the data. The count of 21 species includes four species which are likely closely associated with the hedgerows, trees and boundary vegetation rather than within the core grassland areas. Accordingly, these should be discounted from the list such that number of relevant KWS grassland species is reduced to 17. Grassland KWSs should be special and recognisable to the public, typically because they are “full of flowers”. The grassland at Oakhurst Rise does not support the above characteristics due to the low frequency and constancy of herbs in the sward (typically 5 – 10%). Accordingly, if the grassland were to be designated as a KWS, any Wildlife Trust members visiting would likely be disappointed by what they found, as the grassland does not possess these special features, it being rather ordinary in nature. The prospects for restoration of the grassland are low while similarly conservation management is not secured. As such, the grassland interests remain at risk of being lost. Accordingly, it is our view that the grassland falls short of possessing the necessary ecological interest required for qualification as a KWS designation

Nonetheless, the development proposals present an opportunity to secure the future of a substantial proportion of the grassland. This would be restored and conservation management secured for the long term. The grassland would be recognisable as special in nature by any visiting Wildlife Trust members, with the majority of the grassland secured for use by the school. Its elevated interest would mean that its botanics would be readily identifiable and accessible as a resource for nature studies / biology classes. Measures to enhance faunal interests would also be brought forward under the proposals further adding to the accessible diversity of species.

I trust the above comments are of assistance and we look forward to hearing from you.

Yours sincerely

Alistair Baxter
Director

cc. Gary Kennison (Principal Ecologist, Gloucestershire County Council)

Encl. Technical Briefing Note TN08: Assessment of the Site Against Gloucestershire Local Wildlife Site Criteria

Appendix 3:

Correspondence from Gloucestershire Wildlife Trust dated 07 August 2020

Gloucestershire Wildlife Trust
Robinswood Hill Country Park
Reservoir Road
Gloucester
GL4 6SX

info@gloucestershirewildlifetrust.co.uk
www.gloucestershirewildlifetrust.co.uk
Telephone: 01452 383333

Registered charity number: 232580
Registered in England number: 708575

By email to:
Emma Pickernell, Cheltenham BC

Gary Kennison, Gloucestershire CC

Alistair Baxter, Aspect Ecology

07 Aug 2020

Proposed Local Wildlife Site at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT)

Dear Sir/Madam

Regarding the proposal for Local Wildlife Site status on land at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT).

In order to achieve the goal of a balanced and useful Local Sites system, the Gloucestershire Wildlife Sites Partnership uses minimum habitat and species thresholds that fit the unique biodiversity of the county into a wider context, and a set of general criteria based on the DEFRA-recommended version of the Ratcliffe criteria.

The proposed site does meet the criteria set out in the Key Wildlife Sites (now referred to as Local Wildlife Sites [LWS]) handbook (2015), being greater than 0.5 ha (site is approximately 3.5 ha), confirmed as MG1 grassland habitat by NVC survey carried out by Aspect Ecology in July 2019 and Aug 2020 and by Bioscan in July 2019 and recording, through combination of all of the above surveys 22 species from the grassland list. However, MG1 can cover a wide range of grassland condition, from very high grass cover and few herbs through to much lower grass density and significant herb cover. As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not. The panel may be unable to convene before the planning application goes to committee.

The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site.

Kind regards

Dr Juliet Hynes

Gloucestershire Nature Recovery Network Coordinator

Appendix 4:

Correspondence from the County Ecologist dated 12 August 2020

Gloucestershire COUNTY COUNCIL

Memo

www.gloucestershire.gov.uk

To: Emma Pickernell
Senior Planning Officer, Place and Growth

From: Gary Kennison
Principal Ecologist

Date: 12/08/2020
Ref: 20(057)

Fax: No: N/A Tel No: 01452 425679
email: gary.kennison@gloucestershire.gov.uk

20/00683/OUT
Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration, Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire GL52 6JU Grid Ref (approx.) 396492 221592

New Ecological Information

You have asked me to comment on new ecological information recently received by the Local Planning Authority in connection with application 20/00683/OUT. The new information is as follows:

- *Bioscan letter to you dated 29/07/2020*
- *Bioscan prepared 'Gloucestershire Key* Wildlife Site Assessment Sheet'*
- *Aspect Ecology 'Botanical Survey 2020, Technical Briefing Note TN09: Results of Botanical and NVC Survey' dated 05/08/2020*
- *Aspect Ecology letter to you dated 10/08/2020*
- *Gloucestershire Wildlife Trust letter to you, Aspect Ecology and myself dated 07/08/2020*

These documents are of a technical nature and I have considered these in detail. I have also had the opportunity to visit the site on 06/08/2020. I am familiar with Defra's draft Biodiversity Net Gain metric 2.0 and its use in a number of recent planning matters. I also have experience of the selection process for Local Wildlife Sites (I was a member of the Selection Panel when it was last active under the formerly named 'Key' Wildlife Site system).

I have come to the following conclusions.

1. The site was much as I had expected it to be and my advice to you in my memo dated 01/06/2020 does not require revising.
2. After reading all the recent submissions and visiting the site I am inclined to agree more with Aspect Ecology's assessments and assertions than those of Bioscan. Defra's Biodiversity Net Gain Metric 2.0 is not the finished product and has a number of short comings. The metric is only a rough guide and is no substitute for full assessment by professional ecologists. Unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.
3. In my opinion there is no convincing case for the meadow to be designated a new Local Wildlife Site. The meadow is poor quality MG1 grassland (Mesotrophic Grassland Type 1 of the National Vegetation Classification) and of low conservation value.
4. A Local Wildlife Site designation does not preclude appropriate development and the Wildlife Trust letter reflects this point. The development provides an opportunity to secure the long-term conservation and enhancement of local biodiversity. A large area of the site would become better managed and provide an improved educational resource for the adjoining school.

5. Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
6. The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity. Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location
7. The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
8. The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

*Renamed Local Wildlife Sites in January 2019

Gloucestershire Wildlife Trust
Robinswood Hill Country Park
Reservoir Road
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GL4 6SX

info@gloucestershirewildlifetrust.co.uk
www.gloucestershirewildlifetrust.co.uk
Telephone: 01452 383333

Registered charity number: 232580
Registered in England number: 708575

By email to:
Emma Pickernell, Cheltenham BC

Gary Kennison, Gloucestershire CC

Alistair Baxter, Aspect Ecology

07 Aug 2020

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The proposed site does meet the criteria set out in the Key Wildlife Sites (now referred to as Local Wildlife Sites [LWS]) handbook (2015), being greater than 0.5 ha (site is approximately 3.5 ha), confirmed as MG1 grassland habitat by NVC survey carried out by Atkins in July 2019 and Aug 2020 and by Bioscan in July 2019 and recording, through combination of all of the above surveys 22 species from the grassland list. However, MG1 can cover a wide range of grassland condition, from very high grass cover and few herbs through to much lower grass density and significant herb cover. As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not. The panel may be unable to convene before the planning application goes to committee.

The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site.

Kind regards

Dr Juliet Hynes

Gloucestershire Nature Recovery Network Coordinator

ENGLISH NATURE

Badgers and development

working today
for nature tomorrow

Laurie Campbell/NHPA

Introduction

Badgers are among Britain's most loved wild mammals, though their mainly nocturnal habits mean that many people encounter them only as road casualties. Nevertheless, they are relatively widespread in England and increasing public concern for their welfare has led to stronger legal protection and the establishment of voluntary badger groups to promote their conservation and ensure their welfare. Unfortunately digging and baiting still affects badgers in certain areas and the police, RSPCA and badger groups together play an important role in detecting and prosecuting offenders. Badgers are also frequently affected by development and the purpose of this booklet is to provide an introduction to how development that affects badgers can be carried out within the law.

It is the role of planning authorities to consider the conservation and welfare impacts of development on badgers and issue planning permissions accordingly. English Nature's role is to ensure, through the licensing process, that developments affecting badgers are carried out according to best practice guidelines so as to avoid cruel ill-treatment of badgers. The legislation is not intended to prevent properly authorised development.

Martin B Withers/FLPA

Badger biology and lifestyle

Adult badgers grow up to a metre long and males can weigh up to 14 kg. They accumulate fat reserves in late summer and autumn and lose weight over the winter. Though they have powerful jaws and sharp teeth, their preferred food are earthworms (up to 200 in a single meal); they also eat grains, acorns, insects and fruit.

Badgers live in family or social groups of related mature and young adults and cubs, sometimes known as clans. Each group will defend a territory, which contains water and a variety of food sources to support the clan throughout the year. Fighting in defence of territory can cause serious injury to badgers. Within their territory badgers live in a number of underground tunnel systems called setts, which provide safety and shelter from the weather. Some setts are always occupied and are used also for breeding and raising young in the winter and spring. These main setts can be very extensive, with over forty entrances, whilst smaller ones may have as few as two entrances. Some main setts are ancient,

having been in use for many centuries. Badgers are extremely loyal to these setts and will often continue to occupy them despite considerable disturbance. Other types of sett may be classified as annex, subsidiary, or outliers according to how they are used and how important they are to the social group. Further details about these sett definitions can be found on page six of the RSPCA publication *Problems with badgers?*

Badgers have powerful claws and legs with which they can dig and move earth. Opening up new setts and maintaining and extending old setts is a constant occupation, with bursts of even greater activity at certain times of the year. The pattern of setts and their use can therefore change steadily over the years, or very quickly in response to short-term problems such as drought or flood. In general though, badgers are creatures of habit. They tend to use the same pathways to foraging areas and will continue to try to do so despite any obstacles that are placed in their way. New fences may be broken down and new roads crossed despite any difficulty or danger presented.

Badgers do not hibernate but they often stay below ground for long periods in winter, especially during very cold or wet weather. Badgers mate throughout the year but pregnancy starts around the end of November or early December when the previously fertilised embryos implant into the sow's uterus. Often only the most dominant sow in a family group will produce cubs, usually two or three per litter. These are born underground, usually towards the end of January or beginning of February, emerging for the first time after about eight weeks. The cubs remain dependent upon the sow for a further few weeks while they are weaned and learn how to fend for themselves. For these reasons, disturbing badgers in setts and damaging setts should be avoided completely between the beginning of December and the end of June.

Badgers and the planning system

Planning authorities are required to take account of protected species and habitat conservation when they consider planning applications. The Department of the Environment (now known as Department for Environment, Food and Rural Affairs) has issued *Planning Policy Guidance: Nature Conservation (PPG9)* to local authorities. This explains the role of planners in protecting wildlife and the requirements of wildlife legislation in this country. It is the planning authorities' role to weigh up each application and then to decide on the most appropriate approach. Where protected species are present local authorities should consult English Nature before granting planning permission, should consider attaching appropriate planning conditions or entering into planning obligation to secure the protection of the species, and should advise

Laurie Campbell/NHPA

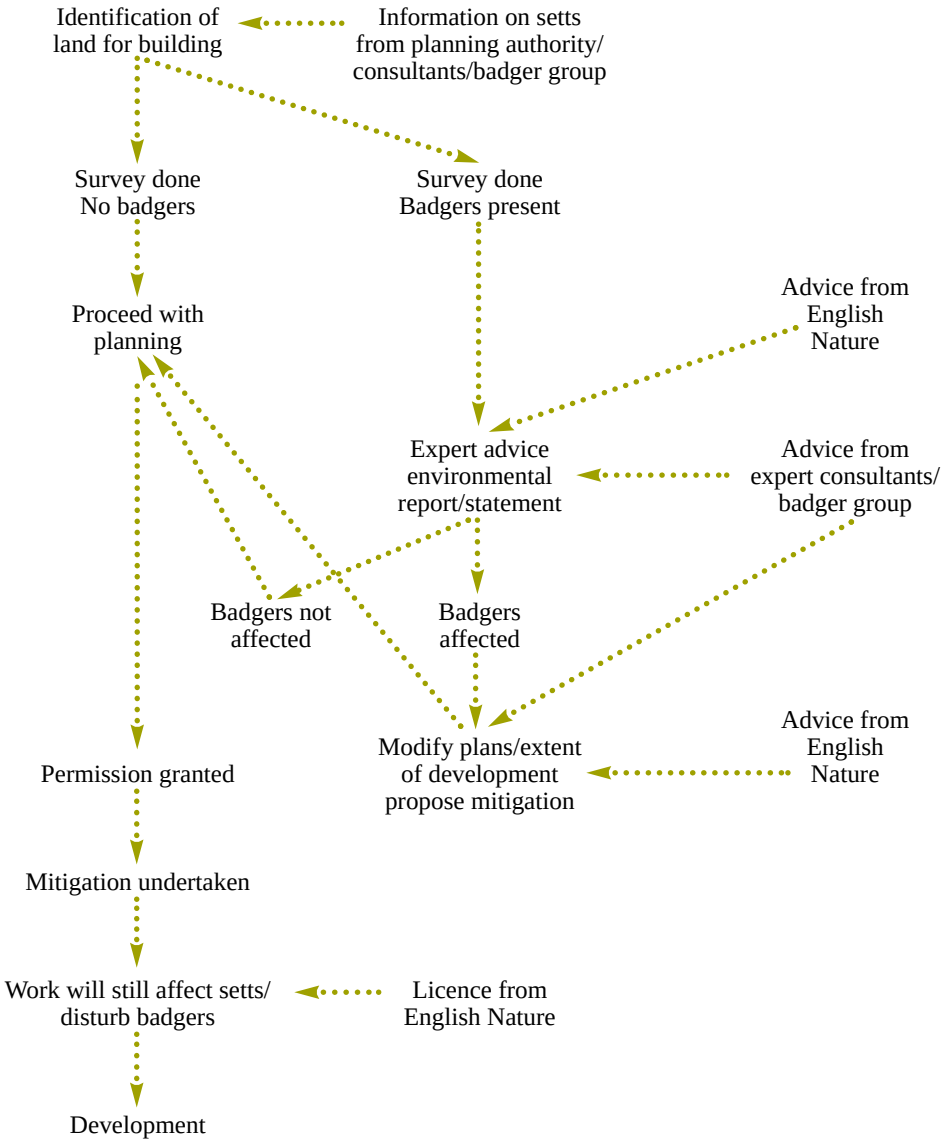
developers that they must conform to statutory species protection.

English Nature believes that all local development plans should contain policies for protected species, including badgers and their setts. This would make it clear to developers that development will not be permitted unless it is possible to take steps to ensure the survival of the badgers, reduce disturbance to a minimum, or provide adequate alternative habitats. English Nature only usually licenses sett interference after detailed planning permission has been granted so that there is no conflict with the planning process. Local authorities and developers need to be aware that for many projects it may be necessary for an environmental assessment to be carried out if the proposed development site hosts badgers. Before the planning application is determined, the local planning authority should request a detailed ecological survey/report and developers should be prepared to provide information including:

- the numbers of badgers on the site, or that are affected by the proposal;
- the impact that the proposal is likely to have on badgers and what can be done in the way of mitigation;
- if the impact is necessary or acceptable;
- and if a licence will be required from English Nature.

Planning and licensing applications are separate legal functions: planning permission from the Local Planning Authority is no guarantee that development operations will not breach the Protection of Badgers Act 1992. It is important, therefore, that developers and planners take adequate account of badgers at the planning stage in order to ensure that a licence is likely to be issued by English Nature.

The following diagram shows the various stages involved in developing land which contains badger setts



Badgers and the law

This is only a guide to the main provisions of the law. English Nature does not provide legal advice to developers and the text of the Act should be consulted and professional legal advice sought for exact interpretations of offences and defences. The Protection of Badgers Act 1992 is based primarily on the need to protect badgers from baiting and deliberate harm or injury. It also contains restrictions that apply more widely and it is important for developers to know how this may affect their work. All the following are criminal offences: to willfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; to intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it. It is not illegal, and therefore a licence is not required, to carry out disturbing activities in the vicinity of a sett that is not occupied by badgers. The Act contains several defences to prosecution, relating to mercy killing and incidental disturbance or damage to setts where this is unavoidable.

Stephen Dalton/NHPA

Developers should take care when carrying out any work near setts as offences could result from both reckless and deliberate damage, disturbance or destruction. A badger sett is defined in the legislation as "any structure or place, which displays signs indicating current use by a badger". Since development operations may take place over a protracted period, English Nature recommends that licences be sought for developments that may affect seasonally-used setts as well as main setts. A good rule of thumb is that if a sett has shown signs of occupation within the past twelve months, it could be in use by badgers when development starts and should therefore be taken account of in planning any work.

Penalties for offences can be severe with fines of up to £5,000, plus up to six months imprisonment, for each illegal sett interference, or badger death or injury. The legislation however recognises the need for a range of legitimate activities to be carried out and allows licences to be granted for certain purposes permitting work which would otherwise be illegal. English Nature may issue licences to interfere with setts for development purposes.

Badgers on site - organising work

The need to comply with the law is obvious. However, there are other more practical benefits in taking adequate account of badgers when planning a development. Public affection for this species means that the cost of mitigation to accommodate badgers may be small compared with that of dealing with protests or adverse publicity if badgers are not catered for. English Nature recommends that when any protected species is thought to occur on site, early advice be sought from professional consultants, or from local experts, as this can prevent costly delays at a later date. Following the advice below will help developers to avoid committing offences and increase the likelihood of obtaining a licence from English Nature if necessary:

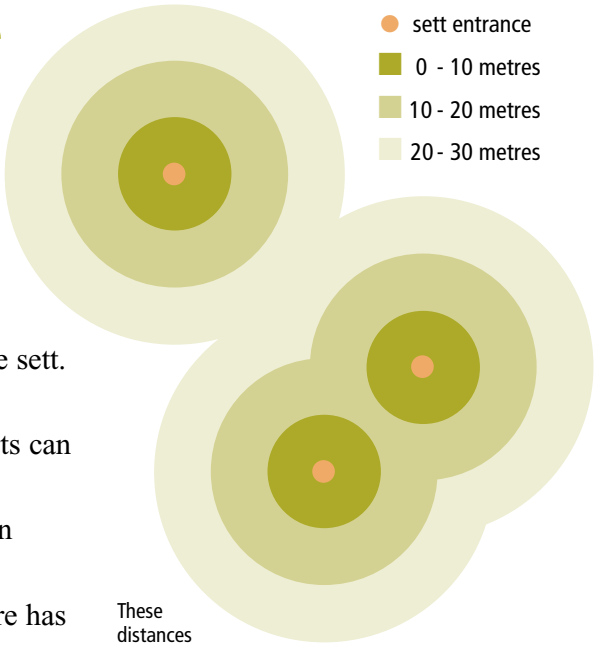
- any scheme proposed to offset the effects of development must be based on competent advice and an appropriate survey carried out at the correct time of the year;
- observations may be necessary over a period of time before insight can be gained into how badgers are using a site. Bait marking (a method used to map defended territorial ranges) and other survey techniques are usually effective only at certain times of the year;
- at times, particularly in winter, it is often extremely difficult, even for the experts, to tell whether or not a sett is occupied. For this reason, and due to the possible presence of a pregnant or nursing sow with cubs and the reluctance of badgers to emerge for long periods in winter, sett exclusion and destruction should normally be limited to between the beginning of July and the end of November;
- those in charge of a development must ensure that clear instructions are given to all the workforce where care

needs to be taken not to cause unlicensed damage to setts or disturbance to badgers;

- machinery used near setts should be operated by experienced persons with fine control of excavators or other groundwork technology, preferably supervised by someone who can advise competently on badgers;
- fires should only be lit, and chemicals stored, well away from setts;
- any trenches left open overnight should have a means of escape for any animals that might fall in;
- trees should be felled so that they fall away from active setts;
- account should be taken of the effect the work will have on the territory of each badger social group. For large developments it may be necessary to provide artificial setts, enhanced feeding areas and access routes for badgers both before and during building work. Small developments should ensure that badger paths are not obstructed and small, but seasonally important, water sources and feeding areas are not destroyed;
- the law does not permit licences to capture badgers for development purposes, so physically moving them out of the way of development is not an option. Similarly, if inappropriate development (eg that isolates a badger territory by surrounding it with roads) results in problems such as increased road deaths, licences cannot be relied upon to move the badgers afterwards;
- badgers can cause considerable damage to gardens and they should not be encouraged to rely solely upon these as a source of food or for places in which to dig new setts;
- destruction of main setts should be considered only as a last resort.

Badger disturbance

Work that disturbs badgers whilst occupying a sett is illegal without a licence. Badgers could be disturbed by work near the sett even if there is no direct interference or damage to the sett. Disturbance is difficult to determine and only the Courts can decide what constitutes disturbance under the Act. In order to aid developers in planning work English Nature has guidelines on the types of activity which it considers should be licensed within certain distances of sett entrances. For example the following may require a licence:

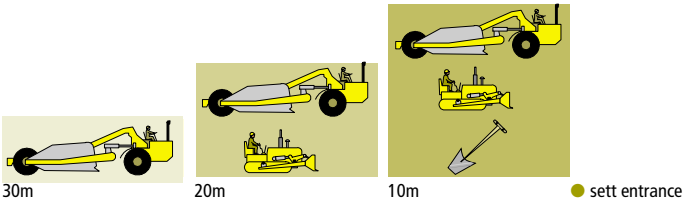


These distances do not indicate the amount of land which badgers need to sustain their long-term survival after development.

The above illustration shows how areas around sett entrances can overlap

- using very heavy machinery (generally tracked vehicles) within 30 metres of any entrance to an active sett;
- using lighter machinery (generally wheeled vehicles), particularly for any digging operation, within 20 metres;
- light work such as hand digging or scrub clearance within 10 metres.

There are some activities which may cause disturbance at greater distances (such as using explosives or pile driving) and these should be given individual consideration. In considering whether or not a licence is necessary, English Nature will take into account the likely affect on badgers. We will not issue licences 'just in case' badgers are disturbed.



Examples of activities requiring a licence near a badger sett

Applying for a licence

Before any work goes ahead which will interfere with setts (including disturbing badgers occupying setts) a licence will be needed from English Nature. Licences cannot be issued retrospectively and we take 15 working days to determine applications. An application form is available from English Nature, giving details of the information required in support of applications. This includes:

- a copy of the detailed planning permission granted for the site, including copies of any Section 106 agreements; we will only license schemes that have detailed planning permission (where necessary);
- information on the status, location and use by badgers of any setts that will be affected by the development;
- proposals showing how badgers occupying affected setts will be excluded humanely from those setts that need to be damaged or destroyed. Sett exclusions will need to be carried out in a manner that ensures badgers are not occupying them when they are destroyed;
- the location and number of alternative setts where excluded animals may shelter when a sett is to be lost;
- an appropriately scaled map of the development site, which illustrates the location of setts

and the proposed development, including a six-figure grid reference;

- how badgers will be accommodated on site when setts are to be destroyed and no alternative setts are available (an artificial sett in a suitable, safe area within the social group's territory may be required, preferably 6 months or more before destruction of the natural sett);
- details of fencing and underpasses, where necessary, to permit access by badgers to existing feeding areas, and to prevent obstruction to setts or isolation of territories. Main, or seasonally important, feeding areas or water sources should be maintained or replaced where they may be affected;
- details of any experience you have of dealing with badgers and badger sett interference relevant to the interference of the proposed development work;
- assurances that machinery used near setts, or to destroy setts, shall be operated by competent persons;
- dates between the months of July and November inclusive when the work will be carried out or compelling evidence that work outside this period would not result in cruel treatment of badgers.

Roger Wilmshurst/FLPA

Further information

Further information on badger issues can be obtained from the following organisations:

The National Federation of Badger Groups
2 Cloisters Business Centre,
8 Battersea Park Road,
London SW8 4BG
(Tel: 020 7498 3220)
Advice available: General guidance on badgers, addresses of local badger groups.

RSPCA
The Causeway, Horsham,
West Sussex RH12 1HG
(Tel: 01403 264181)
Advice available: Injured badgers, welfare issues, offences against badgers.
Publication: *Problems with Badgers? (revised 3rd edition).*

The Mammal Society
15 Cloisters Business Centre,
Battersea Park Road,
London SW8 4BG
(Tel: 0207 498 4358)
Advice available: General booklets on badgers.

The Police
Contact local station and ask for the Wildlife Liaison Officer
Advice available: Reporting offences against badgers.

Local Planning Authority
Contact local office
Advice available: Planning decisions affecting badgers.

Department for Environment, Food and Rural Affairs
Wildlife Management Team
Administration Unit
Burghill Road
Westbury-on-Trym
Bristol BS10 6NJ
(Tel: 0845 6014523)
Advice available: Badgers and animal health, disease, agriculture, forestry, land drainage, penned game and livestock, damage to property or land.

Application forms for licences for development purposes are available from:
The Licensing Service
English Nature
Northminster House
Peterborough PE1 1UA
Tel: 01733 455000
Fax: 01733 568834
E-mail: enquiries@english-nature.org.uk

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