

# Ecology SoCG

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Project: Land off Oakhurst Rise, Charlton Kings, GL52 6NR  
PINS Ref: APP/B1605/W/20/3261154

## Ecology Statement of Common Ground (SoCG) for the Appeal Scheme and Wheatcroft Amendment

Between:

***For the Appellant***

Mr Alistair Baxter BA(Hons), MA(Oxon), MSc, MCIEEM, CEnv, CEcol  
Director, Aspect Ecology

***For the Rule 6 Party***

Mrs Sally Walker

Date: 22<sup>nd</sup> February 2021

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## Appeal Scheme

1. This Statement of Common Ground (SoCG) relates to ecology and biodiversity matters in connection with the proposed planning application (the Scheme) refused on 17<sup>th</sup> September 2020 by Cheltenham Borough Council (CBC) in respect of Outline Application ref. 20/00683/OUT, and the Wheatcroft Amendment proposals submitted on 15<sup>th</sup> January 2021, and should be read in conjunction with other SoCGs. This SoCG is a jointly agreed statement that identifies where there is agreement and disagreement between the appellants and the Rule 6 Party in relation to ecology and biodiversity.

**It is hereby AGREED that:**

Ecological Designations

2. The site itself is not subject to any ecological statutory designation.
  3. On the basis of the mitigation package proposed, the parties agree that the proposals are not likely to give rise to an adverse effect on the integrity of the Cotswold Beechwoods SAC and that potential indirect effects on this international designation have been addressed. NPPF paragraph 177 is not engaged by the development proposal in respect of the Cotswold Beechwoods SAC (submitted scheme and the Wheatcroft amendment).
  4. The site itself is subject to a non-statutory designation in the form of a Local Wildlife Site (LWS) and is included on the Gloucestershire LWS Register on the basis of its 'value for learning'.
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5. The retained open areas of the site, post development, would retain their Local Wildlife Site status, and would be subject to restricted access (e.g. residents of the new housing estate would not be permitted access to the LWS).
  6. No other site designations of nature conservation interest are likely to be significantly affected by the proposals.
  7. It is agreed that any future use of retained grassland for the grazing of animals will be subject to the provisions of the Framework Management Plan which may include the relocation of the two enclosures on the southern boundary of the site which presently house pigs, alpacas and goats.
  8. The Planning Obligations between the Appellants and the LPA require the provision of a Landscape & Ecology Management Plan, which will provide mechanisms for future funding of maintenance. The relevant Clauses in the Planning Obligations are Part III 3a) and b).

#### Flora and Habitats

9. Bat surveys were last conducted on site in 2017. Update inspections of the potential of the trees to support bats were undertaken in 2020. The detail as to where the bat surveys have been undertaken can be found in the 2018 Bat Activity Report (**CD F34**). Plan 1 of the Report shows the transects surveyed, which include the east of the site.
10. The site contains ancient and veteran trees.
11. Hedgerows H1 and H2 as identified in the ecological appraisal, qualify as Priority habitats. Hedgerow H1 also qualifies as 'important' under the 1997 Hedgerows Regulations. It is acknowledged that the existing hedgerows in the northern and eastern boundary of the site (H3-5) may belong to the original Battledown lots.

#### Significant harm and balance of biodiversity loss and gain

12. Ecological enhancements proposed for incorporation within the development, as set out at Section 6 of the 'Ecological Appraisal' April 2020 and Plan 5847/ECO4, have benefits and are to be weighed against the negative effects of the development on biodiversity, in order to ascertain whether significant harm will arise and whether net loss is avoided and net gain achieved.
13. It is agreed that the DEFRA Biodiversity Metric 2.0 Calculation Tool is a recognised and acceptable assessment tool and the results from that assessment should be used to assess the performance of proposals against the framework of national and local policies relevant to biodiversity.
14. The Rule 6 Party have identified a minor typographical error in a plan on Aspect Technical Note TN10 (The figure of 0.34ha on the Plan 5487/BiA2 July 2020 should read as 0.37ha). No issue is taken with this.

#### Statutory consultees

15. Natural England has been consulted and did not object albeit they have not commented specifically on the proposals other than in respect of the potential for impacts on off-site statutory nature conservation designations which it is agreed is not at issue in this case.

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16. The County Ecologist has been consulted and has no objection to the proposals, subject to conditions and/or informatives being applied to the consent which require further detail on matters such as mitigation and enhancements.

**Matters NOT AGREED:**

17. The rule 6 party have recorded, with onsite validation from Bioscan's principal ecologist, 22 grassland species (from the KWS handbook list of those species representative of semi-natural grassland). The Appellants are not in a position to agree that 22 grassland species (from the KWS Handbook list of those species representative of semi-natural grassland) have been recorded by local residents and validated by Bioscan.
18. The position of the Rule 6 Party is that the hedgerows on the northern and eastern boundary of the site (H3-5) belong to the original Battledown lots, and that Aspect has therefore included hedgerows that are not on the appeal site as part of their biodiversity calculation. The Appellants' position is that the existing hedgerows make no material difference to the overall Net Biodiversity Gain.
19. The position of the Rule 6 Party is that there have been changes to the site since 2016 (including its annual maintenance), which affect the biodiversity baseline data. The Appellants do not accept this position.
20. The Rule 6 Party consider that development within the site would have an adverse impact on the registered features or criteria for which the site was listed as a local wildlife site, and harm cannot be avoided or satisfactorily mitigated. The Appellants do not accept this position.
21. The Landscape & Ecological Management Plan, required by condition and Planning Obligation, provides for the delivery of the biodiversity benefits identified by the Appellants. The Rule 6 Party does not agree that the Framework Management Plan is deliverable.
22. The Rule 6 Party contends that the avoid mitigate compensate hierarchy has not been followed, and mitigation measures for species and habitats, as set out at Section 6 of the Ecological Appraisal, are not satisfactory with respect to protected species and retained grassland. The Appellants do not agree with this position.
23. It is not accepted by the Appellants that the ecological recording and documentation by residents and local ecology groups is a proper record of biodiversity on this site. The Rule 6 Party does not consider that the survey work undertaken in regard to protected and other species, the results of which are set out in various documents and summarised within the 'Ecological Appraisal' April 2020, is appropriate and satisfactory
24. The Rule 6 Party does not accept that the scheme achieves a net gain in biodiversity and, in applying the Defra metric, the Rule 6 Party position is that this demonstrates a biodiversity net loss.
25. The Rule 6 Party does not accept that the development proposals are compliant with relevant national and local policies concerning the protection of biodiversity.

26. The Rule 6 Party consider the installation of the artificial badger sett introduces risks to the underground structure to the icehouse and of the Grade II Listed Charlton Manor (drains spring water supply and stable block). The Appellants consider this objection does not have substance in the planning balance and that an artificial badger sett can be appropriately located on the site in the retained open land.
27. The Appellants position for habitat retention and losses sourced from the Aspect Technical Note TN10: Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation Tool, 7<sup>th</sup> August 2020 (**CD F9**) is set out below:
- 77% (~0.2626ha) of hedgerow H1 will be retained and 23% (~0.0789ha) is lost
  - 68% (~0.1113ha) of hedgerow H2 is retained and 32% (0.0529ha) lost
  - The total existing area of hedgerows H1 and H2 is 0.5057ha. 74% is retained (0.3739ha) and 26% (0.1318ha) is lost
  
  - 57% (~1.91ha) of the existing grassland will be retained and enhanced
  - 12% (~0.41ha) of the existing grassland will be planted to create the woodland belt
  - 31% (~1.06ha) of the existing grassland will be lost to built form

The Rule 6 Party dispute the grassland calculations, noting that major earthworks are required in the vicinity of the artificial badger sett and the flood defence installation.

Signed

Name: Mr Alistair Baxter

Date: 01 March 2021

For and on behalf of William Morrison  
(Cheltenham) Limited and The Trustees of the  
Carmelite Charitable Trust

Signed:

Name: Mrs Sally Walker

Date: 24th Feb 2021

For and on behalf of Friends of Charlton Kings