



Our Ref: PE0166/LT/HS
Date: 8th August 2022

**Section 78 Appeal by Rosconn Strategic Land and Thomas Eric Baker and Sally Rose Hall, the Executors of Mr E C Baker and Mrs J Baker
Land south of (east of Griffin Place) Radwinter Road, Saffron Walden
PINS Ref: APP/C1570/W/22/3296426
LPA Ref: UTT/21/2509/OP
Appellants' Ref: PF/10680**

RESPONSE TO SCOTT SCHEDULE WITH SWTC dated 20/07/2022 (v5): TOPIC E ECOLOGY

1.1.1 This briefing note provides a response to Topic E Ecology of the Scott Schedule (circulated on 04/08/2022) prepared in response to planning appeal APP/C1570/W/22/3296426. It sets out a detailed response to the four matters identified at E1-E4. Attached in Appendix 1 is the relevant section of the Scott Schedule with summary responses to the matters identified below drawing upon the contents of this note.

E1 Matter of Disagreement

1.1.2 *"41. The proposals do not clarify the extent of loss in order to create visibility splays. The Hedgerow Appraisal in the PEA assumes local rather than national designation (4.2.7). This is incorrect as they qualify as Important hedges, the national designation, under the Hedgerow Regulations 1997, on numerous counts (SWTC SEPC Appendix A6)".*

Position of Appellants

1.1.3 The ES¹ provides the total length of hedgerow proposed to be removed to accommodate the visibility plays in Paragraphs 8.131. It states 105m of H1 and 25m of H8 will be permanently removed. All other hedgerows will be retained.

1.1.4 It is incorrect to state that the PEA "assumes local rather than national designation" applies to the hedgerows. The PEA simply concludes that "Hedgerows and scattered trees are considered to be of importance up to a local level, primarily due to the species diversity and habitat connectivity they provide".

1.1.5 All qualifying hedgerows are protected by the Hedgerow Regulations 1997 this does not mean that all qualifying hedgerows are of national importance. All hedgerows need to be assessed regardless of whether they are protected by the Hedgerow Regulations.



CIEEM guidance² states that the importance of an ecological feature should be considered within a defined geographical context. Hedgerows on the site were considered to be Important in a local geographical context by taking into consideration other contributing features, as set out in Paragraph 4.6 of the CEEM guidelines, primarily the extent of the habitat present set within a geographical scale.

- 1.1.6 The Rule 6 Party has not provided a critique of the PEAs assessment of the hedgerows or any evidence of their own of the hedgerows' importance to suggest the PEA is incorrect.
- 1.1.7 It is understood that the LPA ecologist has not contested the importance assigned to hedgerows on the site.
- 1.1.8 Protection of Important hedgerows at the reserved matters stage could be controlled via draft planning conditions 5, 12 and 18.

E2 Matter of Disagreement

- 1.1.9 *"42.PEA Table 3 raises the issue of hedges that are Important but lose protection because they adjoin a dwelling.*
- 1.1.10 *Clause 3(3) of the Hedgerow Regulations is a significant material consideration as it would apply and potentially remove the statutory protection of the Important hedges should this Appeal succeed".*

Position of Appellants

- 1.1.11 Table 3 identifies 9 hedgerows. The statement that the hedgerows "adjoin a dwelling" is incorrect. Only hedgerow H7 adjoins a dwelling, as confirmed by Table 3. It is, therefore, already subject to Regulation 3(3) of the Hedgerow Regulations 1997 which states:
- 1.1.12 *"(3) These Regulations do not apply to any hedgerow within the curtilage of, or marking a boundary of the curtilage of, a dwelling-house".*
- 1.1.13 These Regulations apply whether or not the Appeal succeeds. There is no additional harm as a consequence of the proposed development on Hedgerow H7.

¹ Bidwells (2022) Environmental Statement Addendum. Land South of Radwinter Road, Saffron Walden

² CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.2. Chartered Institute of Ecology and Environmental Management, Winchester



E3 Matter of Disagreement

- 1.1.14 *“43.Bats and protected species are not robustly and transparently surveyed. According to Table 4, the bat survey was carried out at the wrong time. Despite a night-time visit at which Potential Roosting Features were recorded, the numbers and types of bats are not described and the bat roost potential of the hedgerow and hedgerow trees is not given. No reference is made to Pounce Wood, designated ancient woodland, SSSI, Local Wildlife Site and bat habitat, directly across the valley only 160 metres away”.*

Position of Appellants

- 1.1.15 The survey timings of all bat surveys undertaken are reported in Table 8.1A and Table 8.2A of the ES. Bat activity surveys were undertaken in May, July, August and September 2021 which is within the survey season for undertaking bat surveys as set out in guidance by the Bat Conservation Trust (2016)³. BCT guidance provides recommendations for timings of surveys at dusk and dawn. Where survey start times differ it is not considered to represent a significant limitation to the survey results or interpretation of the data, particularly given bats were recorded. It is understood that the LPA ecologist has not objected to the data presented.
- 1.1.16 The numbers and types of bats recorded were described in Paragraphs 8.98 – 8.105 of the ES.
- 1.1.17 Trees that could be affected by the proposed development were assessed for bat roost potential. No bat roost potential of hedgerows was undertaken because bats do not roost in hedgerows.
- 1.1.18 The ES acknowledges that Pounce Wood is an Ancient Woodland and a Local Wildlife Site in Table 8.4A. Based on consultation with the local record centre, www.magic.gov.uk, as set out in Paragraph 8.75 of the ES, and statutory consultee response to the application, Pounce Wood is not designated as an SSSI.

³ Bat Conservation Trust (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edition. P. 51)



E4 Matter of Disagreement

- 1.1.19 *“44. Table 4 biodiversity gain does not take into account the likely extent of loss and the high ecological quality of Important hedges and mature habitats versus replacement”.*

Position of Appellants

- 1.1.20 The biodiversity metric provided by DEFRA takes into account the extent of loss of hedgerows, the importance of the hedgerows and has a temporal multiplier embedded into the calculation to account for the time taken for habitats to establish.
- 1.1.21 By categorising all hedgerows on site as ‘Native Species Rich Hedgerow with trees - Associated with bank or ditch’ the scheme could still deliver over 18% net gain with respect to hedgerows.
- 1.1.22 Protection of Important hedgerows at the reserved matters stage could be controlled via draft planning conditions 5, 12 and 18.

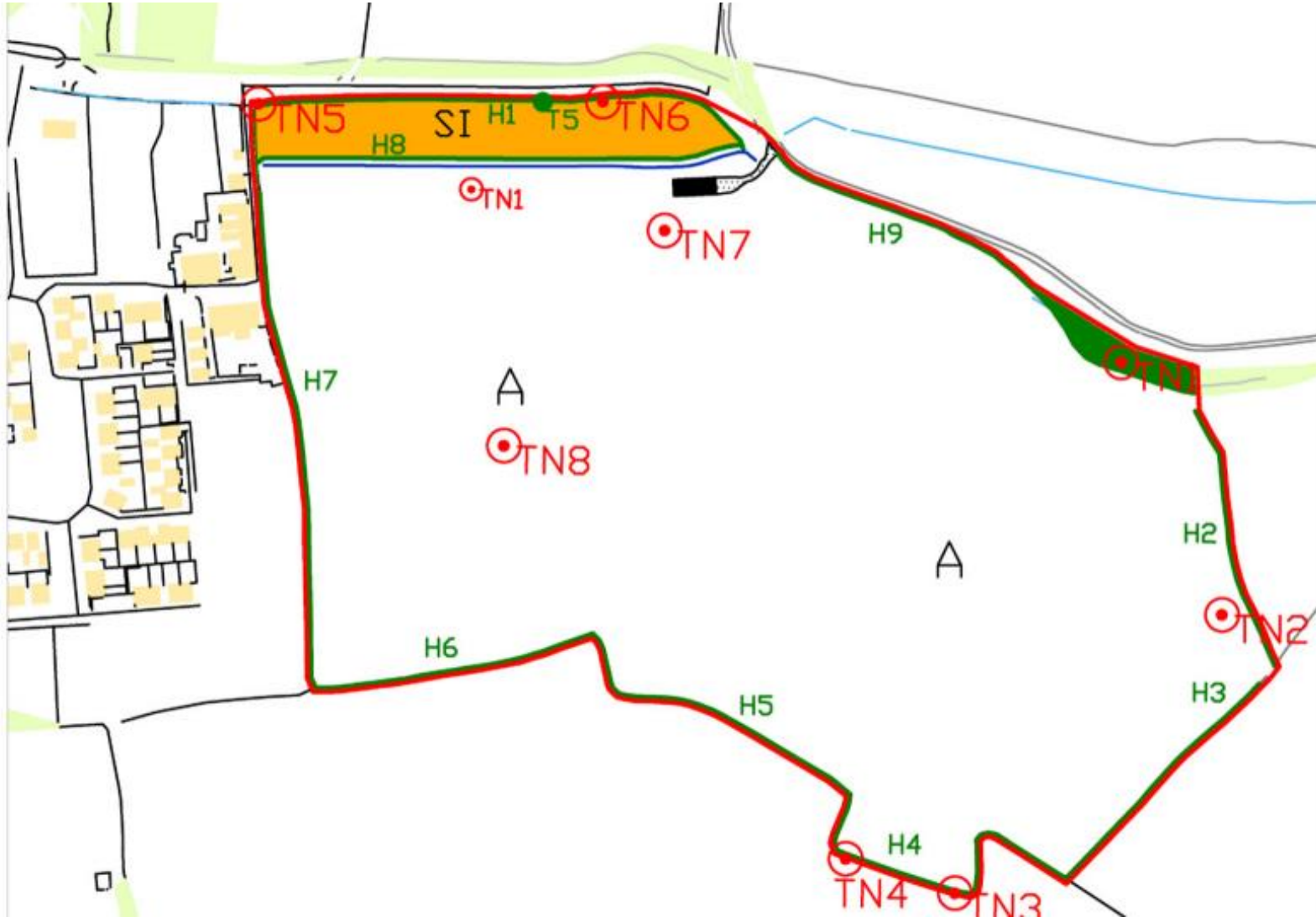


Table 1: Summary of hedgerow survey data

| Hedge no. | Original assessment reported in ES | Approx. length (m) ⁴ | Species recorded in 30m sections ^{5,6} | Aggregate no. of species ⁷ | Features specified in paragraph 7(4)(a) to (g) of the Regulations | Confirmed Important under landscape and wildlife criteria (Schedule 1 Part II 6-7) of the Hedgerow Regulations 1997? | Hedgerow retained? |
|-----------|--|---------------------------------|--|---------------------------------------|--|--|------------------------|
| H1 | Assumed Important under Hedgerow Regulations | c. 270 | <p><u>Section 1</u> Hazel, blackthorn, spindle, hawthorn, field maple, elder, dog rose, crab apple (8)</p> <p><u>Section 2</u> Blackthorn, field maple, hawthorn, dogwood, hazel, spindle, dog rose (7)</p> <p><u>Section 3</u> Hazel, blackthorn, field maple, elm, hawthorn, wayfarers' tree (6)</p> | 7 | Already attained | <p>Yes</p> <p>Contains at least 7 woody species</p> | Partial removal |
| H2 | Assumed Important under Hedgerow Regulations | c. 140 | <p><u>Section 1</u> Field maple, hawthorn, ash, crab apple, blackthorn, oak, dog rose (7)</p> <p><u>Section 2</u> Field maple, hawthorn, ash, blackthorn, oak, dog rose, crab apple, elder (8)</p> | 7.5 | <p>Already attained</p> <p>Dog's mercury, lords and ladies recorded.</p> | <p>Yes</p> <p>Contains at least 7 woody species</p> | Retained |
| H3 | Assumed Important | c. 150 | <p><u>Section 1</u> Grey willow, blackthorn,</p> | 6 | Features identified (3): | Yes | Retained |

⁴ Measured using www.gridreferencefinder.com

⁵ where the length of the hedgerow exceeds 100 metres, but does not exceed 200 metres, count the number of woody species present in the central stretch of 30 metres within each half of the hedgerow and divide the aggregate by two;
(d) where the length of the hedgerow exceeds 200 metres, count the number of woody species present in the central stretch of 30 metres within each third of the hedgerow and divide the aggregate by three.

⁶ Species recorded may differ from those reported in the ES because they were not recorded as present within the 30m sample section of the hedgerow.

⁷ Five species or more are considered as species-rich

| Hedge no. | Original assessment reported in ES | Approx. length (m) ⁴ | Species recorded in 30m sections ^{5, 6} | Aggregate no. of species ⁷ | Features specified in paragraph 7(4)(a) to (g) of the Regulations | Confirmed Important under landscape and wildlife criteria (Schedule 1 Part II 6-7) of the Hedgerow Regulations 1997? | Hedgerow retained? |
|-----------|--|---------------------------------|---|---------------------------------------|--|---|------------------------|
| | under Hedgerow Regulations | | elder, holly, hawthorn (5) <u>Section 2</u> Hawthorn, blackthorn, elm, field maple, oak, dog rose, spindle (7) Gaps >10% | | Double hedgerow Required number of mature trees Ditch | | |
| H4-6 | Assumed Important under Hedgerow Regulations | c. 517 | <u>Section 1</u> hawthorn, field maple, blackthorn, dog rose, oak, wayfaring tree, dogwood (7) <u>Section 2</u> Hazel, dog rose, field maple, blackthorn, willow, elder (6) <u>Section 3</u> wayfaring tree, blackthorn, field maple, elder, ash, hawthorn (6) | 6.3 | Features identified (5): Ditch Double hedgerow Gaps <10% Required number of mature trees 2 indicator species false brome, dog's mercury | Yes | Retained |
| H7 | No | c. 315 | <u>Section 1</u> Hazel, dog rose, elder, blackthorn, dogwood, field maple, hawthorn (7) <u>Section 2</u> Hazel, blackthorn, elder (3) <u>Section 3</u> Hazel, blackthorn, dog rose, field maple, holly, yew (6) | 5.3 | Features identified (2) Ditch, Mature trees | No - hedgerow forms the curtilage of, or marking a boundary of the curtilage of, a dwelling-house as determined via aerial imagery. | Retained |
| H8 | Assumed Important under Hedgerow | c. 285 | <u>Section 1</u> Field maple, elm, dog rose, hazel, elder, dogwood, blackthorn (7) | 5 | Features identified (4) Gaps <10% Bank | Yes | Partial removal |

| Hedge no. | Original assessment reported in ES | Approx. length (m) ⁴ | Species recorded in 30m sections ^{5, 6} | Aggregate no. of species ⁷ | Features specified in paragraph 7(4)(a) to (g) of the Regulations | Confirmed Important under landscape and wildlife criteria (Schedule 1 Part II 6-7) of the Hedgerow Regulations 1997? | Hedgerow retained? |
|-----------|--|---------------------------------|---|---------------------------------------|--|--|--------------------|
| | Regulations | | <u>Section 2</u> Elm, blackthorn, field maple, elder (4) <u>Section 3</u> Field maple, blackthorn, hawthorn, holly (4) | | Ditch Required number of mature trees | | |
| H9 | Assumed Important under Hedgerow Regulations | c. 250 | <u>Section 1</u> Blackthorn, field maple, elder, hazel, horse chestnut, dog rose, dogwood (7) Indicator species: dog's mercury & mature trees <u>Section 2</u> Field maple, hazel, blackthorn, elder, hawthorn (5) <u>Section 3</u> Ash, blackthorn (2) | 4.7 | Features identified (3) Gaps <10% Ditch Required number of mature trees | No | Retained |

APPENDIX 1: TOPIC E: ECOLOGY

| | Matter of Disagreement | Position of Saffron Walden Town Council (SWTC) as Rule 6 Party | Position of Appellants | Reserved for Inspector's Notes |
|-----|---|---|---|---------------------------------------|
| E1. | Extent of hedgerow loss for visibility splays | Lack of clarity as to extent of hedgerow loss to create visibility splays – PEA incorrectly assumes local rather than national designation / concern hedges lose their statutory protection where they adjoin a dwelling. | <p>A full response to this matter can be found in Paragraphs 1.1.1 – 1.1.22. To summarise the position:</p> <p>The ES and DEFRA metric includes calculated lengths of hedgerow loss to accommodate the scheme which includes loss to accommodate visibility splays. Whilst hedgerows could receive legal protection through national legislation when valuing habitats such as hedgerows, other factors are taken into consideration as set out in CIEEM guidelines (2018) to establish their level of importance.</p> <p>Regulation 3 under the Hedgerow Regulations 1997 states '<i>These Regulations do not apply to any hedgerow within the curtilage of, or marking a boundary of the curtilage of, a dwelling-house</i>'. Only hedgerow H7 adjoins the curtilage of a dwelling.</p> | |
| E2 | Survey work on bats/protected species | Bats and protected species not robustly and transparently surveyed – bat survey carried out at wrong time / no./types of bats not recorded / bat roost potential of hedgerows/trees not give. | <p>A full response to this matter can be found in Paragraphs 1.1.1 – 1.1.22. To summarise the position:</p> <p>Details of bat survey (methodology and results) are provided. Bat surveys were undertaken using Bat Conservation Trust survey guidelines and within the recognised survey window for bat activity surveys. Surveys and full details were provided in the ES and Addendum ES and associated appendices.</p> | |

| | | | | |
|----|--|--|--|--|
| E3 | Reference to Ancient Woodland, SSSI, LWS and bat habitat | No reference made to Pounce Hall Ancient Woodland/SSSI/LWS/bat habitat only 160m away. | <p>A full response to this matter can be found in Paragraphs 1.1.1 – 1.1.22. To summarise the position:</p> <p>Reference to Pounce Wood LWS, AW can be found in Section 8.73 – 8.75 of the ES Addendum - consultation with the local biological record holder and online databases (www.magic.gov.uk) did not identify Pounce Wood as a SSSI.</p> | |
| E4 | Extent of loss of high quality hedges and mature habitats versus replacement | Table 4 biodiversity gain does not take account of likely extent of loss of high ecological quality hedges and mature habitats versus replacement. | <p>A full response to this matter can be found in Paragraphs 1.1.1 – 1.1.22. To summarise the position:</p> <p>The DEFRA biodiversity metric was used to calculate BNG including an assessment of hedgerow loss/replacement – see the full Excel metric which accompanies the planning application. The metric has built-in weightings to account for time to establish new hedgerows.</p> | |