Town and Country Planning Act 1990

Planning Proof of Evidence: Ecology and Biodiversity

Land at Chichele Road, Oxted

Ref: APP/M3645/W/24/3345915

Mr Jim Phillips BSc (Hons) MA MCIEEM
On behalf of Cala Homes (South Home Counties) Ltd

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Prepared by

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CONTENTS

1 INTRODUCTION

1.1 Qualifications and Experience

1.1.1 My name is Jim Phillips, I hold a BSc (Hons) degree in Environmental Biology from the University of Essex and a Master of Management with merit from the University of the West of England. I have been a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) since 2011.

1.1.2 I am the Managing Director of Ethos Environmental Planning Ltd (Ethos), a company I established in November 2013. Ethos is a multi-disciplinary environmental planning consultancy providing specialist advice to inform decision making for planning and development. Ethos' specialism includes Ecology, Biodiversity Net Gain and Green Infrastructure. Under my management, Ethos employs 26 full time and seasonal ecologists and environmental professionals.

1.1.3 Before establishing Ethos, I was a Director of JPC Strategic Planning & Leisure Ltd based in Bristol (2006 – 2013), and prior to this I held a number of posts in local government in natural environment related positions (1995 – 2006).

1.1.4 The educational and professional experience I have gained over the past 30 years has provided me with technical expertise in the fields of ecology and green infrastructure planning.

1.1.5 I hold a Natural England level 2 class survey license for bats (WML – CL18) and I am a registered consultant under the Bat Low Impact Class License, and hold a level 2 accreditation on the bat earned recognition scheme (Natural England), I also hold a level 1 class survey license for Great Crested Newts (WML – CL08).

1.1.6 I am appointed by Cala Homes (South Home Counties) Ltd to act as expert witness on matters related to Ecology and Biodiversity in relation to the appeal site for a *"Proposed residential development 116 Dwellings (Class C3) including affordable housing with associated access, car parking, soft landscaping and play provision."*

1.1.7 I have personally been to site on over ten occasions during 2022 and 2024 which has included various habitat and protected species survey work. I have also overseen the full scope of the ecological survey and assessment undertaken by members of my team over the three years.

1.1.8 My evidence has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. I confirm that the opinions expressed are my true and professional bona fide opinions.

2 SCOPE OF EVIDENCE

2.1 Introduction

2.1.1 The scope of my evidence provides a summary and update of the ecological baseline of the site, a summary of relevant policy, guidance and legislation which I may reference in my evidence and I use this to address the reasons for refusal.

2.1.2 The format of the proof is:

- To set out the reasons for refusal;
- To provide a summary of key policy, legislation and guidance relevant to my evidence;
- To provide a summary and update in relation to the ecological baseline of the site;
- To set out and address the reasons for refusal and the key issues in relation to biodiversity set out in the Council's Statement of Case;
- To demonstrate the appeal scheme is compliant with relevant policy and legislation.

2.1.3 My evidence does not include a detailed assessment of matters related to Biodiversity Net Gain, as this assessment was not undertaken by Ethos, however, I have provided a summary of the BNG position for the scheme.

2.1.4 Prior to preparing this proof of evidence, in a letter dated 29th July 2024, PINS had requested further information in relation to surveys undertaken for badgers, birds, reptiles and amphibians. These were provided on the 12th August and are referenced in section 4 and provided within the appendices of my evidence.

2.2 Reasons for refusal

2.2.1 The following reason for refusal is relevant to my evidence:

3) The proposed development is contrary to the provisions of the NPPF paragraph 180 d) because it has not been demonstrated that it will contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Likewise, the proposed development is contrary to the provisions of Tandridge District Core Strategy policy CSP17 and Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP19 because it has not been demonstrated that biodiversity will be protected, maintained and enhanced.

2.3 Council's Statement of Case

2.3.1 Within the Council's statement, I have considered the following sections within my evidence:

8.17 With respect to grounds of refusal 3 and 5, the appellant submitted an ecological and biodiversity assessment (Dated October 2022) with the original planning application which has been supplemented with responses to comments made by Surrey Wildlife Trust and the Council's ecologist. The conclusions of the assessment by the appellant's ecological consultant were that there would be no significant adverse effects on sensitive receptors being the habitats and certain species (bats, hedgehogs and birds) found on the site. The overall conclusion of the assessment was that the proposed development would meet Local Plan Policy DP19 by promoting nature conservation management and providing a multi-functional green infrastructure and bringing the ancient woodland parcel into active management for nature conservation and local pedestrian use.

8.18 The Council's ecologist recommended that the application was refused for the following reasons:

- *The site is within a AONB and a development of this density would impact on the important and irreplaceable habitats present within the AONB.*
- *Due to the density of development, and the lack of protective measures, there is a high risk of deterioration and loss of on-site and offsite ancient woodland habitats due to recreational pressure and other urbanizing effects.*
- *Due to lack of offsite survey, there is a risk that a chalk headwater stream will be culverted and polluted by the proposed development. Chalk Streams are a Priority Habitat under the Natural Environment and Rural Communities Act 2006.*
- *Due to the incomplete species surveys, there is a high risk that protected species could be disturbed, harmed, or killed; a similar point has been raised in the Planning Inspectorate's letter to the appellant of 29th July seeking confirmation when surveys that are referred to in the Ecology chapter of the Environmental Statement were undertaken, and further confirmation these surveys are representative of the current state of the environment.*
- *Despite Biodiversity Net Gain being proposed within the application, there is no metric, or consideration of appropriate on- or off-site mitigation or Biodiversity Net Gain. These comments mirrored those of the Surrey Wildlife Trust (SWT) with respect to biodiversity considerations.*

8.19 As set out in ground of refusal 3, the LPA's case will be that the proposed development is contrary to the provisions of the NPPF because it has not been demonstrated that it will contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Likewise, the proposed development is contrary to the provisions of Core Strategy policy CSP17 and Local Plan policy DP19 because it has not been demonstrated that biodiversity will be protected, maintained and enhanced.

3 POLICY AND LEGISLATION

3.1 Introduction

3.1.1 Within this section, I have set out the relevant policy framework at national and local level and have set out the key legislation relevant to my statement.

3.2 National Policy

National Planning Policy Framework

3.2.1 National policy is set out within the National Planning Policy Framework (NPPF) 2023. Chapter 15 'Conserving and Enhancing the Natural Environment' includes policies in respect of 'Habitats and Biodiversity'.

Paragraph 180d states that:

"Planning policies and decisions should: contribute to and enhance the natural and local environment by ….(d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

3.2.2 Paragraph 185b states that:

"To protect and enhance biodiversity and geodiversity, plans should: …..(b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity".

3.2.3 Paragraph 186a is also relevant stating that "When determining planning applications, local planning authorities should apply the following principles:

a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

3.3 Local Policy

Tandridge District Core Strategy (Adopted 2008)

3.3.1 The key policy of the Core Strategy with relation to ecology and biodiversity in the Tandridge District Core Strategy is Policy CSP 17: Biodiversity. This policy states that developments should protect biodiversity and aim to restore or create suitable semi-natural habitats and ecological networks to sustain wildlife in accordance with the

Surrey BAP aims. Downlands Countryside Management Project, Local Nature Reserves and Community Wildlife Areas will also be supported.

Tandridge Local Plan Part 2: Detailed Policies 2014 – 2029 (Adopted 2014)

Policy DP19: Biodiversity, Geological Conservation and Green Infrastructure.

3.3.2 This policy states that development proposals which seek to promote nature conservation and management, restore or create Priority Habitats or protect, enhance or increase the provision of multi-functional Green Infrastructure ('GI') will be favoured by the Council. In addition, proposals which would result in harm to local, national or statutory sites of biological importance or the broader GI network will be refused planning permission unless alternative locations with less harmful impacts are demonstrated to be unsuitable. Otherwise measures to avoid the harmful impacts arising, sufficiently mitigate or compensate for their effects must be incorporated by the proposals. The granting of planning permission will be wholly exceptional where a proposal is likely to harm an irreplaceable environmental asset of the highest designation directly or indirectly, (i.e., a Site of Special Scientific Interest ('SSSI'), Ancient Woodland or veteran trees). Exceptions will only be made where benefits of development at the Site clearly outweigh both the impacts on the features of the Site and on any broader networks of SSSIs or outweigh the loss of any Ancient Woodland or veteran trees. Proposals affecting (directly or indirectly) protected or Priority Species will only be permitted where it can be demonstrated that appropriate mitigation measures will be implemented to prevent possible harm.

Planning Practice Guidance

3.3.3 Planning Practice Guidance (PPG) on Biodiversity, geodiversity and ecosystems provides additional detail and guidance on aspects of the National Planning Policy Framework. In respect of the Natural Environment, the PPG sets out the role of the local authority in relation to Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC Act) and indicates how ecology should be considered as part of planning, sets out the mitigation hierarchy, and provides further detail on net gain and how this can be achieved.

3.4 Legislation

3.4.1 Within this section, I have set out relevant legislation to my evidence.

3.4.2 **The Habitats Directive** (together with the Birds Directive) forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: the Natura 2000 network of protected sites and the strict system of species protection. All in all, the Directive protects over 1,000 animals and plant species and over 200 "habitat types" (e.g. special types of forests, meadows, wetlands, etc.), which are of European importance. The Habitats Directive and parts of the Birds Directive are transposed into legislation by The Conservation of Species and Habitat Regulations 2017 (as amended).

3.4.3 **Wildlife and Countryside Act 1981** (as amended, including by the Countryside and Rights of Way Act 2000), which provides legislative protection for certain species. The Act also prohibits the spread of invasive plant species, as well as providing the mechanism for the designation and protection of Sites of Special Scientific Interest;

3.4.4 Badgers and their setts are protected under the **Protection of Badgers Act 1992** as amended by the Hunting Act 2004.

3.4.5 The **Natural Environment and Rural Communities Act 2006** (the NERC act) places a duty on all public authorities, including local planning authorities, to consider biodiversity in their work. Local planning authorities are to ensure that there is no net loss of biodiversity on a site, no net loss in habitat connectivity and aims to enhance biodiversity.

3.4.6 The **Hedgerows Regulations 1997** protect 'important hedgerows' from being removed (uprooted or destroyed). Hedgerows are protected if they are at least 30 years old and meet at least one of the criteria listed in part II of schedule 1.

4 SUMMARY OF BASELINE ECOLOGY

4.1 Introduction

4.1.1 Ecology surveys have been undertaken at the site by Ethos in 2022 and 2024. Within this section I have provided a summary of the ecological baseline and have grouped this under key headings (Sites, Habitats and Species). Under each heading I have summarised the baseline from 2022 and the updates from 2024. Full details of the ecology baseline from 2022 are provided in the submitted ES Chapter on Ecology, and further details of the 2024 surveys are provided as appendices.

4.1.2 Where relevant, I have also provided a summary of the likely impacts and mitigation measures that will be delivered by the appeal scheme.

4.2 Designated Sites

Statutory Designated Sites

4.2.1 The Site is located within 1km of the Woldingham and Oxted Downs Site of Species of Scientific Interest ('SSSI'). There is a parcel of Ancient Woodland within the Site, and several others within the wider 1km. The locations of the designated sites are located in Figure 1. The designated sites are assessed to be of **'National' importance** for nature conservation.

4.2.2 Potential impacts on the ancient woodland sites are included in my assessment, and I consider this below within my evidence (paras. 4.2.5 - 4.2.9 and 5.2.4 - 5.2.7).

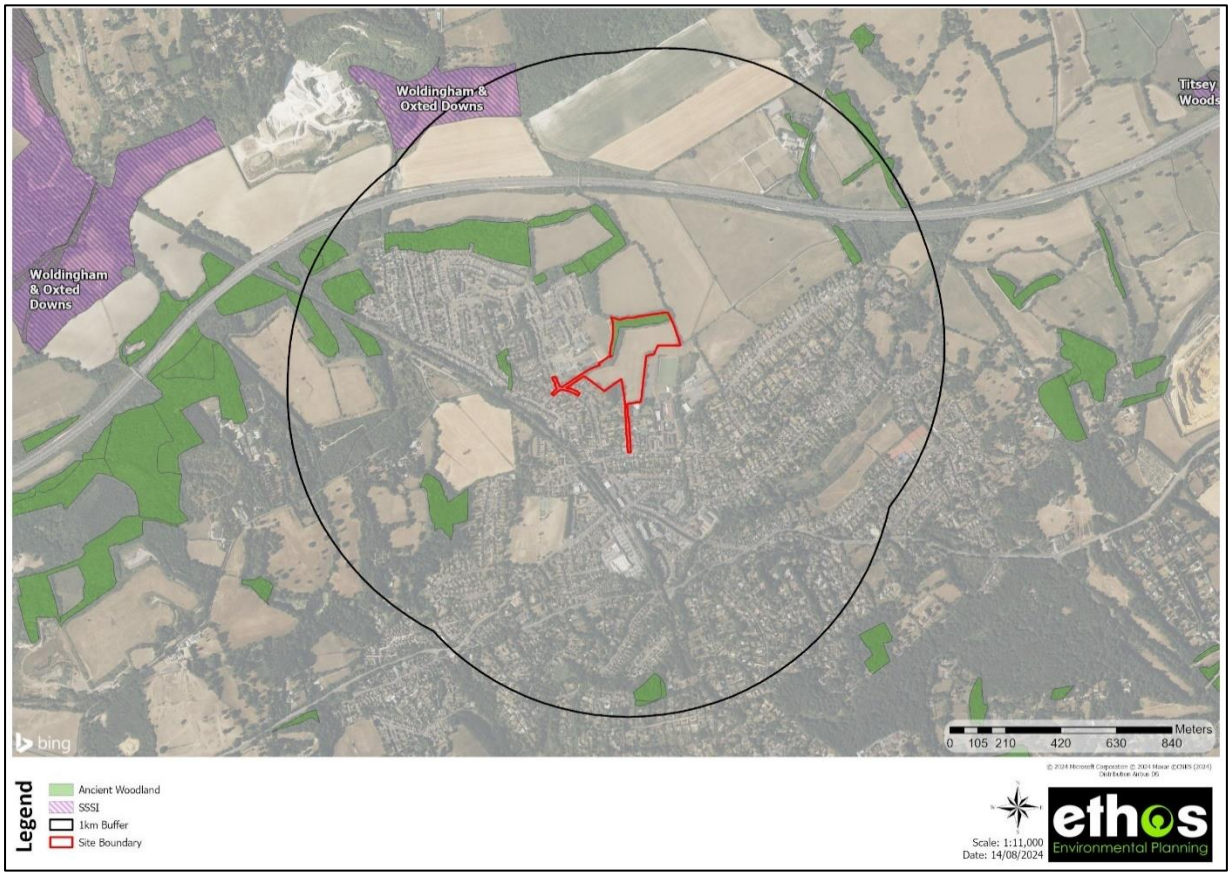

Figure 1 Statutory designated sites

Non-statutory Designated Sites

4.2.3 There are two Sites of Nature Conservation Importance ('SNCI') located within 1km of the Site; Five Acre Shaw and Lodge Wood and Chalkpit Wood. There is also one potential SNCI ('pSNCI') located within the search radius, The Bogs. The locations of the designated sites are shown in Figure 2.

4.2.4 All SNCIs were assessed to be of **'County' importance** for nature conservation, in line with their designation. Non-statutory designated sites were assessed to be sufficiently distant from the Site to avoid impacts as a result of the Proposed Development, with the exception of Chalkpit Wood, which I consider at section 4.2.5.

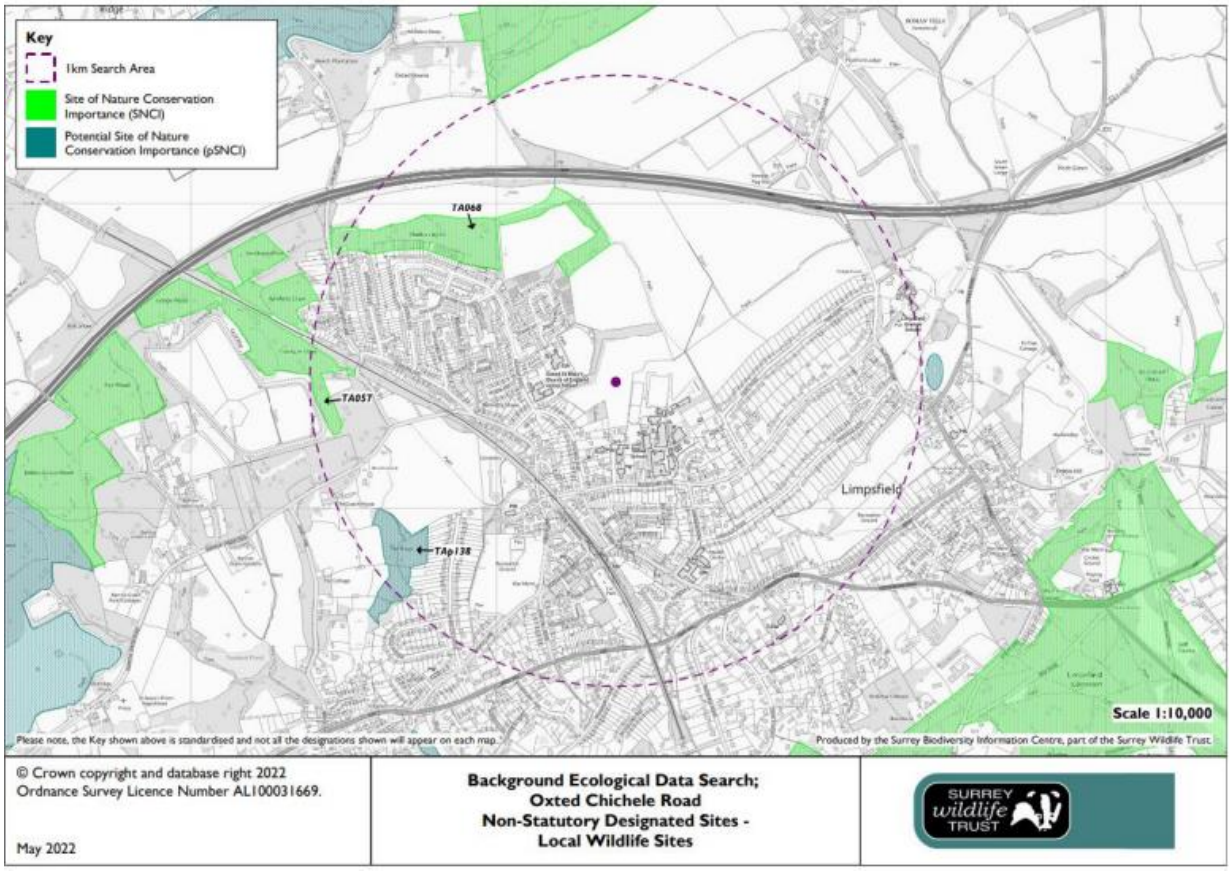

Figure 2 Non-Statutory designated sites

Chalkpit Wood Ancient Woodland and SNCI

4.2.5 Chalkpit Wood is an ancient woodland and SNCI, and is located approximately 400 metres to the north of the northern boundary of the site. Consultee comments (Surrey Wildlife Trust), requested further information in relation to potential operational impacts (through increased recreational pressure) of the development on this site.

4.2.6 To inform my assessment, I undertook a site visit on the 22nd May 2024 to assess as much of the site as possible, this comprised approximately 3 hours walking various parts of the woodland. The photographs below show some typical examples of my observations which support my comments below.

Photo 1 Less used path

Photo 2 Path in reasonable condition

Photo 3 Path with damage

Photo 4 Path with damage

Photo 5 Paths fenced off at tracks in woodland

Photo 6 Informal access point to woodland

Photo 7 Garden Waste

Photo 8 Fly Tipping

4.2.7 A summary of my key observations is as follows:

- There are no public rights of way through the woodland. Access points are informal through gaps created at the woodland edges (photo 6), with no apparent formal access or routes through the site;
- A number of access points have been created where fencing has been broken. Several paths stopped where fencing had been erected (photo 5), much of which appeared relatively recent.
- It was apparent from my visit that there is unarranged access to the woodland which is being heavily used by walkers (with dogs), with a series of main paths and subsidiary paths;
- Several areas along the main paths are suffering from damage and were extremely muddy (photos 3 and 4);
- There were a number of areas where there was evidence of fly tipping of garden waste from rear gardens (photo 7) and more significant waste near to Chalkpit Lane (photo 8).

4.2.8 It is apparent that unarranged access and anti-social behaviour (fly tipping) is having a negative impact on the woodland. However, I also noted that the ground flora within the woodland was diverse and indeed considerably more so than the ancient woodland on the appeal site. The damage was limited to paths and fringe areas (access/fly tipping) and it is my professional opinion that the site could be brought into a much more favourable condition through management (albeit it is not within the control of the appellant to deliver this). It is understood from land registry that the woodland is in private ownership.

4.2.9 Whilst the appeal scheme is in close proximity to Chalkpit Wood, it cannot be assumed that new residents will themselves pursue unarranged access or take part in anti-social behaviour which would result in any further negative impacts than the current situation. Chalkpit Wood is private land and unarranged access to it is unlawful. On this basis, considering there is no arranged public access to the woodland and it is in private ownership, I do not consider it likely that the appeal scheme will result in operational impacts on the woodland. In my view it is not appropriate to assess the likely significant

impacts on the basis of an assumption that new residents will engage in unlawful activity.

4.3 Habitats

4.3.1 Figures 3 and 4 show the UKHab and Hedgerow maps for the site based on the updated surveys from 2024 (full scale images can be seen at appendix 1).

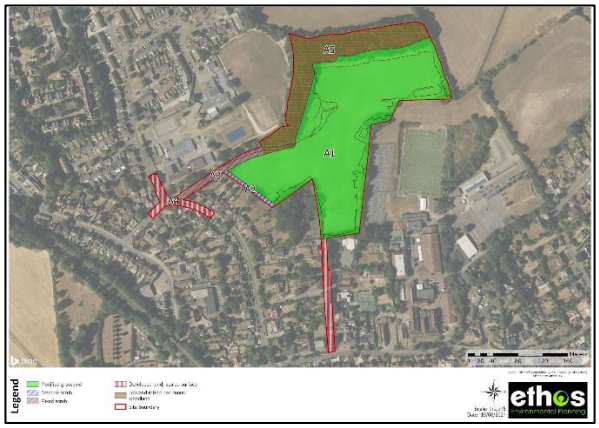

Figure 3 Habitat map

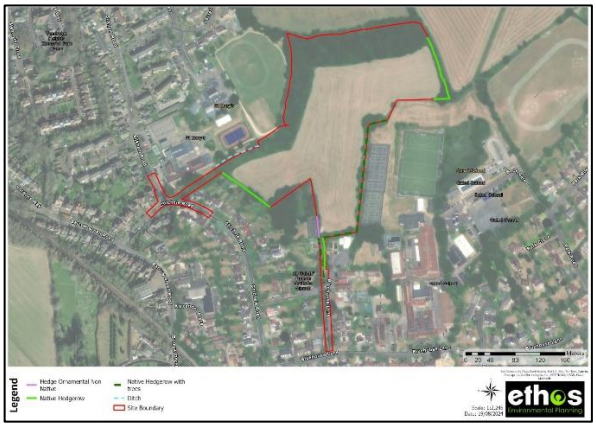

Figure 4 Hedgerow map

4.3.2 The land within the proposed development area is dominated by modified grassland which has a long-term history of management as agricultural grassland (see figures 5 and 6 below). The species diversity of the grassland is low, and this habitat is not assigned any particular scale of importance for nature conservation. Some of this habitat will be lost to the development, however, no compensation for this loss is required due to its low ecological value.

Figure 5 Aerial imagery from 2000

Figure 6 Aerial imagery from 2022

4.3.3 The woodland in the north of the site is ancient woodland, as such is of **'National' importance** for nature conservation. The appeal scheme provides a minimum of a 15m buffer to the woodland. No public access to the woodland will be permitted. Anyone accessing this woodland will be engaging in unlawful activity.

4.3.4 The boundary hedgerows all qualify as habitats of principal importance and as such are assessed as having **'County' importance** for nature conservation. The appeal scheme

has been designed to retain and buffer the hedgerows, which will enable their long-term retention and management outside of garden curtilages.

4.3.5 A small gap of 2 metres will be created in the northeast of the hedgerow to allow pedestrian access to the adjacent public right of way. This is a minimal gap and I do not consider this will have any material impact on the habitat or connectivity of the hedgerow. Checks for nesting birds will be undertaken during the removal of this section of hedgerow.

4.4 Protected Species

NERC Mammals

4.4.1 The 2022 assessment identified the habitats on site were assessed to be of potential value for hedgehogs which are listed as a Species of Principal Importance for the conservation of biodiversity in England. Any animals using the Site are likely to form part of a wider population within the local area, which would be of '**Local' importance** for nature conservation.

4.4.2 Mitigation to avoid direct impacts on this species are set out within the ES chapter and can be detailed within a Construction Ecological Management Plan (CEMP) which can be secured by condition. Enhancements can be delivered though a 'hedgehog highway' to be included within and ecological enhancement plan.

4.4.3 The Site was considered unsuitable for harvest mouse, brown hare, and polecat due to a lack of suitable habitat.

Badger

4.4.4 No evidence of badger was identified in the surveys during 2022. However, during the updated surveys in 2024, three mammal holes were identified in the south west of the site. Camera trap surveys were undertaken over a month from late June to late July 2024. The surveys identified the holes were currently being used by fox, although a badger was observed passing the camera. A badger survey report is provided at appendix 2.

4.4.5 Whilst badgers are present on site, as they are not a species of principal importance, they are not assigned any particular scale of importance for nature conservation. However, they are protected from disturbance while occupying a sett (Badger Act, 1992).

4.4.6 The assessment has concluded that there are no active badger setts on site at present, however, as these are mobile mammals and they could create new setts at any point, an updated badger survey prior to commencement is required and can be secured by condition.

Hazel Dormouse

4.4.7 Presence/absence surveys were undertaken in 2022 and determined that there was no evidence of hazel dormouse on-Site. Given the number of dormouse tubes deployed on-Site (48) and the duration of the survey period (May to October 2022), the minimum threshold score of 20 within the index of probability has been reached, and therefore the results are determined to be valid.

4.4.8 No signs of dormouse were recorded during surveys in 2022. These surveys are still valid and no further updates are required (Dormouse surveys remain valid for a period of 3 years).

Bats

4.4.9 Surveys in 2022 comprised three activity surveys and static surveys which combined covered the months of May, June, July and September. Bat activity was dominated by common pipistrelle bats, notably along the northern boundary with the woodland, and this area was identified as an important commuting and foraging resource for this species.

4.4.10 Consultee comments (Surrey Wildlife Trust and Council Ecologist) queried the survey effort for bats and sought clarification in relation to any limitations of the surveys. It remains by professional opinion that sufficient survey data was available to make a robust assessment of bat usage of the site, particularly as the scheme was avoiding impacts by providing buffers and dark corridors to the key features comprising the woodland and hedgerow boundaries.

4.4.11 However, considering the comments received, the timing of the appeal and recent changes to bat surveys guidance (BCT, September 2023) I did consider it prudent to take the opportunity to gather some supplementary evidence in relation to bat use of the site. The details of the updated assessment are provided at appendix 3, a summary of the key findings are summarised below.

4.4.12 Three surveys have been undertaken in April, June and August 2024. During each survey, activity was extremely low, limited to occasional common pipistrelle bats commuting or foraging along the woodland edge or occasional passes on the eastern and western hedgerows.

4.4.13 Three static bat detectors were located in the same positions as the surveys in 2022 (east, west and northern boundaries) monthly between April and August 2024. It is intended that the static surveys will continue through until October 2024, however, I consider it highly unlikely that the results from those surveys will change my overall assessment of the use of the site by bats.

4.4.14 Tables 1 and 2 below provide a summary of the static bat detector results, with table 1 showing the total calls and assemblage of species per month, whilst table 2 shows the total records by species and location.

Species	April	May	Jun	Jul	Aug
Common Pipistrelle	921	1968	6071	6012	2354
Soprano Pipistrelle	45	94	570	51	113
Nathusius' Pipistrelle			3		
Brown Long-eared Bat	6	19	8	27	29
Leisler's Bat	34	61	140	49	9
Noctule	5	19	6	22	42
Serotine	27	181	17	36	19
Daubenton's Bat		8	13	27	51
Natterer's Bat		3	33		3
Whiskered Bat		3	5	25	24
Other Myotis Spp	1	2	1		
Grand Total	**1039**	**2358**	**6867**	**6249**	**2644**

Table 1 Summary of static surveys results (total by month)

Species	Location 1: East Boundary	Location 2: West Boundary	Location 3: Northern Woodland Boundary
Common Pipistrelle	2971	1813	12542
Soprano Pipistrelle	93	68	712
Nathusius' Pipistrelle			3
Brown Long-eared Bat	46	21	22
Leisler's Bat	46	6	241
Noctule	43	28	23
Serotine	201	18	61
Daubenton's Bat	28	17	54
Natterer's Bat	5	1	33
Whiskered Bat	2	2	53
Other Myotis Spp	4		
Grand Total	**3439**	**1974**	**13744**

Table 2 Summary of static surveys results (total by location)

4.4.15 The survey results reflect the previous assessment. It can be concluded that bat activity is dominated by common pipistrelle bats, notably along the boundary between the grassland and woodland in the north of the site. The results indicate that this area is used for foraging and commuting, and I would consider the woodland edge to be of **'Local' importance** for commuting and foraging common pipistrelle bats. I do not consider the site to be of any material importance for other bat species, although the mitigation that will be delivered to minimise any impact upon common pipistrelle bats is also appropriate for the wider assemblage of bat species.

4.4.16 The scheme includes a 15m buffer to the ancient woodland, this will include retention and enhancement of the existing grassland habitat and new buffer planting and fencing

between the development and the 15 metre buffer edge (as shown on the Ancient Woodland Mitigation Plan drawing).

4.4.17 The boundary hedgerows which are also used for occasional commuting are also being retained outside of garden curtilage and will remain as dark corridors which will maintain their availability for use by bats.

4.4.18 It is therefore my professional opinion that the scheme has been designed to avoid impacts on bats, and that the mitigation provided through the buffers and lighting design will retain suitable commuting and foraging habitat that will ensure there is no negative impact on bats.

Birds

4.4.19 The assessment in 2022 concluded that *"The majority of the Site comprises modified grassland which is assessed as unlikely to support notable ground nesting birds due to the unsuitability of the habitat. The Site also comprises woodland and Ancient Woodland parcels with hedgerows which are assessed to be highly likely to support nesting birds. It is considered that the likely assemblage of birds present within the hedgerows and woodland is of '**Local' importance** for nature conservation".*

4.4.20 As the relevant habitat features for birds are being retained, it was not considered necessary to undertake targeted breeding bird surveys. Whilst it remains my professional opinion that it was not proportionate to require bird surveys, since consultee comments (Council Ecologist) raised this as a potential shortfall in the ecology baseline, on balance I did decide to undertake surveys in 2024.

4.4.21 The results of these surveys are provided at appendix 4. The surveys recorded no birds nesting within the grassland areas (e.g. skylark) and all bird activity was associated with the woodland and hedgerows. The assemblage of species recorded was relatively common, however, four species recorded are Species of Principal Importance under the NERC Act 2006 namely linnet (*Linaria cannabina),* song thrush (*Turdus philomelos),* dunnock (*Prunella modularis),* bullfinch (*Pyrrhula pyrrhula).*

4.4.22 Based on the survey results and scheme layout, notably the provision of the buffers to the ancient woodland and retention and buffers to hedgerows, it is concluded that any material impact on birds will be avoided.

4.4.23 The scheme does require the clearance of some areas of vegetation, for example to create the access to the site off Chichele Road. These are relatively small areas (approximately 0.1 ha), and this level of vegetation loss is not considered to have any material impact on the population of birds present on site. The vegetation clearance will need to be undertaken sensitively, and avoid the bird nesting period. The requirement for this can be secured by planning condition.

Reptiles

4.4.24 The assessment in 2022 concluded that the habitats to be impacted by the development (modified grassland) was sub optimal for reptiles, particularly as there was a lack of suitable margins between the grassland and woodland/hedgerows (and these areas are being retained). It remains my professional opinion that that the habitats on site are sub optimal for reptiles, and surveys were not necessary since impacts could be avoided. However, consultee comments (Surrey Wildlife Trust and Council Ecologist) both raised the need for further justification or assessment for reptiles. In the light of these comments, I considered this matter could best be dealt with through an appropriate presence/absence survey (appendix 5).

4.4.25 These surveys undertaken in 2024 recorded no reptiles on site, and therefore no mitigation in relation to reptiles is required.

Amphibians

4.4.26 The consultation comments (Council Ecologist) stated *"I recommend that a Habitat Suitability Index Assessment is undertaken on the on-site pond and the surrounding ditch network to assess their suitability for great crested newt breeding and migration. This should be carried out after April to allow flora to mature within the woodland pond. If the HSI show suitability full great crested newt surveys will be required".*

4.4.27 In response related to this, I undertook a survey of the woodland pond (see Appendix 7) and a desktop and ground search for any potential nearby ditches in May 2024. I sent samples off from water collected from the pond for DNA analysis which confirmed a negative result, indicating Great Crested Newts (GCN) are absent.

4.4.28 A search of OS maps suggested there may be a ditch to the east of the site (as shown at figure 7). However, it appeared this ditch was culverted and held no open water suitable for GCN. The entire length of this ditch comprised a mature hedgerow, with one small exposed location with a culvert pipe (see photos 9 and 10 below). This feature provides negligible potential for GCN and other amphibians.

4.4.29 As the concerns raised related to the woodland pond and surrounding ditches, the results of the updated surveys indicate that GCN are likely absent and no further survey or mitigation is required.

Photo 9 Culvert in east of site

Photo 10 Hedgerow along culverted ditch

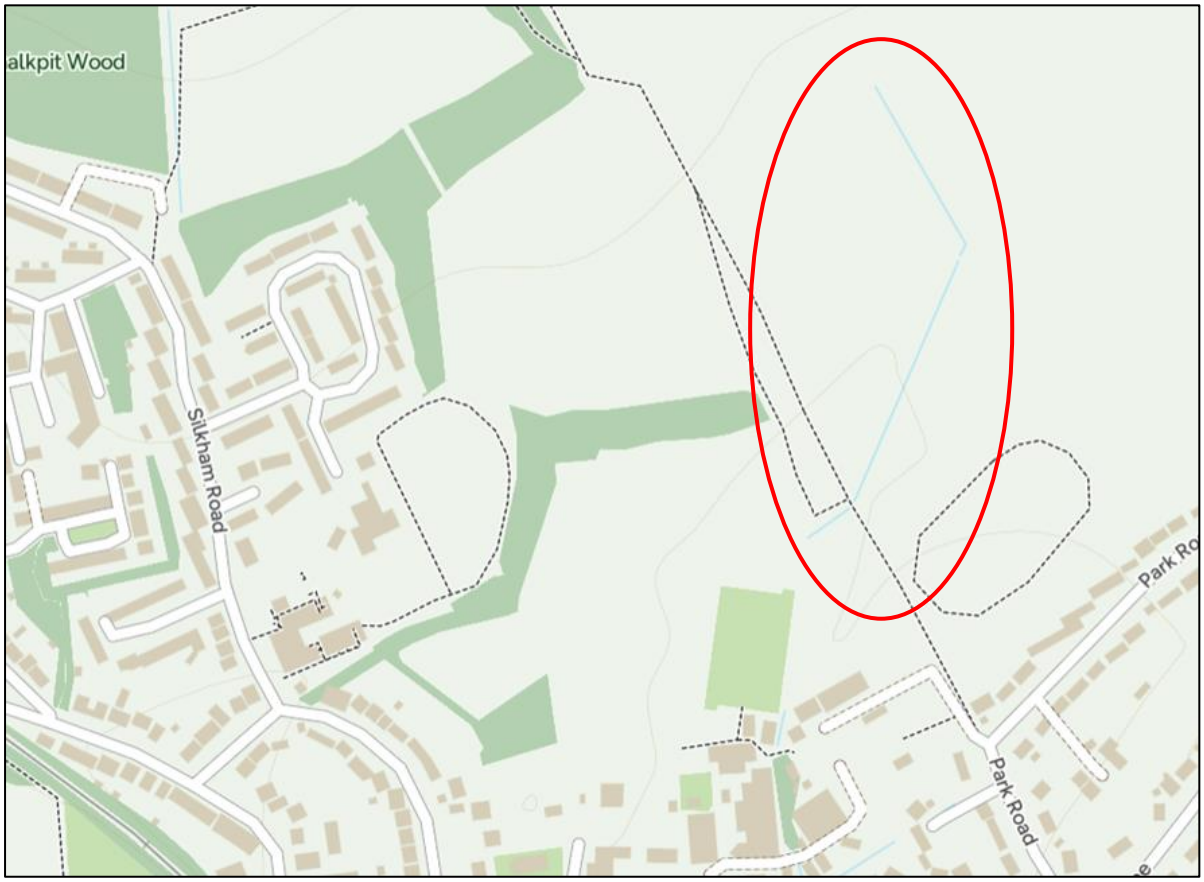

Figure 7 Potential ditches near the site

Invertebrates

4.4.30 When scoping the original surveys to inform the ecology assessment, it was my professional opinion that the grassland habitats on site were sub optimal for invertebrates and that whilst the ancient woodland may provide some valuable invertebrate habitats, impacts on the woodland were being avoided. This was summarised in the 2022 assessment which stated *"The Site is dominated by modified grassland, which provides low habitat for invertebrates. The key feature is assessed to be both the woodland parcels, along the northern edge and in the south of the Site which could provide potential habitat for invertebrates, however overall, the*

assemblage of invertebrates on-Site is assessed to be unlikely to be particularly important for nature conservation".

4.4.31 However, the consultee comment (Council Ecologist) stated *"I recommend that an invertebrate survey is undertaken within all woodland, scrub and hedgerows within the site. This should comprise six visits throughout the survey season, full identification of all invertebrates to species level and discussion as to their rarity and importance within the woodland complex".*

4.4.32 It remains my opinion that it was disproportionate to request the surveys. However, since I am not a specialist entomologist, I have sought an independent opinion from Dr. Jonty Denton who is a specialist. I have provided a copy of Dr Denton's report (appendix 7) which concludes *"The pasture field is largely very species poor and has a low value for invertebrates, grass vetchling and ox-eye daisy were the only potential host species of any value within the sward which is dominated by Yorkshire fog and rye-grass. Rapid assessment of the field indicates it does not pass the threshold for further surveys. However, it does support a population of small heath which is a schedule 41 species*".

4.4.33 The presence of small heath butterfly is likely to be of **'Local' importance** for nature conservation, and it is considered that the buffer habitats to be created in the north of the site to the ancient woodland are capable of providing grassland habitat that will continue to provide suitable habitat for this species (for example through increasing the diversity of caterpillar foodplants grass species such as fescues, meadow grass and bents). Details of this can be set out within a Landscape and Ecological Management Plan (LEMP).

4.4.34 I therefore consider that the appeal scheme will not have any material impact on invertebrates and no further surveys are required to demonstrate this.

4.5 Summary

4.5.1 Table 3 below provides a summary of the relevant ecological features, their scale of importance and the key mitigation measures and means of their delivery.

Table 3 Summary of relevant ecological features and mitigation

Ecological Feature	Scale of importance	Mitigation	Means of delivery
Ancient Woodland (in redline)	National	Provision of 15m buffer, habitat enhancement and planting at edge of development footprint.	Included in layout and landscape drawings and in Ancient Woodland Mitigation Drawing.
Hedgerows	Local	Hedgerows retained outside of garden curtilage with buffer to enable management by Manco. Clear 2m pedestrian access gap outside of bird nesting season.	Included in layout and landscape drawings. Included in CEMP.
Hedgehog	Local	Precautionary working methods pre construction. Opportunities for enhancement through provision of 'hedgehog highways' in gardens.	Included in CEMP. Ecological Enhancement Plan.
Common pipistrelle bats (commuting and foraging)	Local	Provision of 15m dark corridor to ancient woodland. Retention of hedgerows with buffers around as dark corridors.	Included in layout and landscape drawings and in Ancient Woodland Mitigation Drawing. Requirements for lighting to be inline with submitted lighting strategy to be secured by condition.
Breeding Birds	Local	Buffer to ancient woodland and hedgerows. Sensitive site clearance of scrub to create access outside of bird nesting season.	Included in layout and landscape drawings and in Ancient Woodland Mitigation Drawing. Included within the CEMP to be secured by condition.
Small Heath Butterfly	Local	Retention of grassland glade in buffer to ancient woodland	Included in layout and landscape drawings and in Ancient Woodland Mitigation Drawing.

5 ASSESSMENT

5.1 Introduction

5.1.1 Within this section, I set out the reasons for refusal and the Council's Statement of Case and provided a response to them, drawing on relevant previous sections of my evidence.

5.2 Reason for Refusal 3

5.2.1 Reason for refusal 3 states *"The proposed development is contrary to the provisions of the NPPF paragraph 180 d) because it has not been demonstrated that it will contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Likewise, the proposed development is contrary to the provisions of Tandridge District Core Strategy policy CSP17 and Tandridge Local Plan Part 2: Detailed Policies (2014) policy DP19 because it has not been demonstrated that biodiversity will be protected, maintained and enhanced".*

5.2.2 I first consider the above in relation to the NPPF and 'minimising impacts', as my evidence demonstrates that the appeal scheme does minimise impacts on relevant features of biodiversity interest, which I consider in the following section.

5.2.3 The ecology baseline demonstrates that the relevant features of biodiversity interest comprise the Ancient Woodland (National importance), Hedgerows (Local importance), Hedgehog (Local importance), Common Pipistrelle bats (Local importance), Breeding Birds (Local importance), Small Heath Butterfly (Local importance).

Ancient Woodland

5.2.4 A buffer of 15 metres is being provided to the ancient woodland which is in line with guidance provided on the gov.uk website[1]. An Ancient Woodland Mitigation Plan has been provided which shows the buffer between the edge of the residential development and the woodland, which is enshrined within the overall scheme layout and landscape master plan. The edge of the development will be fenced, and additional buffer planting and trees will be provided along this edge.

5.2.5 There will be no public access to the ancient woodland or the buffer zone, which will serve to protect the woodland from pressure caused by unlawful access to the woodland. Further, it will enable the buffer to be managed for the benefit of the ancient woodland and biodiversity generally.

[1] https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions#:~:text=Buffer%20zone%20recommendations&text=For%20ancient%20or%20veteran%20trees,15%20times%20the%20tree's%20diameter.

5.2.6 The provision of the 15 metre buffer will enable the habitats in this area to be managed for biodiversity (as opposed to being managed as agricultural grassland as is currently the case). This will enhance the immediate habitats adjacent to the ancient woodland which will be an ecological enhancement and gain.

5.2.7 It is therefore my professional opinion that the scheme will avoid any material impacts on the ancient woodland. On this basis, the scheme does 'minimise impacts' on the ancient woodland.

Hedgerows

5.2.8 The scheme has been designed to retain hedgerows outside of garden curtilages and provide a buffer large enough to allow the existing hedgerows to be manged by a management company and to be retained as dark corridors. The only minor impact will be on the removal of a two metre section in order to create pedestrian access to the adjacent PROW. I consider the benefits of creating this access outweigh the immaterial impact this will have on the hedgerow.

5.2.9 Further, new hedgerow planting is proposed between the development and the buffer to the ancient woodland which will result in an overall net gain in the provision of hedgerows as part of the scheme.

5.2.10 On this basis, the potential of scheme upon hedgerows has been appropriately minimised.

Hedgehog

5.2.11 The more valuable habitats for hedgehog are contained within the woodland and hedgerows which are being retained and protected by an appropriate buffer. Precautionary working methods will be implemented (secured through the CEMP) to ensure there is no impact on this species when small areas of scrub are removed to enable the access. The scheme will provide a hedgehog highway throughout the development to enable this species to utilise residential gardens. Therefore, the scheme will minimise impacts on this species and the further measures proposed to the woodland buffer and hedgehog highway would constitute an enhancement over the existing situation.

Common Pipistrelle bats

5.2.12 The scheme has been designed to provide buffers to the ancient woodland and hedgerows which are the relevant features for bats. The lighting scheme has been designed to retain these areas as dark corridors. These measures will serve to minimise impacts on bats.

5.2.13 The enhancement of the habitat adjacent to the ancient woodland will provide opportunities for increasing the provision of invertebrate prey species for bats and

deliver an overall gain to the most important part of the site for bats. Additional gains will be delivered through the provision of integral bat boxes through the scheme.

Breeding Birds

5.2.14 The scheme has been designed to provide buffers to the ancient woodland and hedgerows which are the relevant features for birds, this serves to minimise impacts on bird species.

5.2.15 The enhancement of the habitat adjacent to the ancient woodland will provide increased foraging opportunities for birds which is considered to be an overall gain for bird species. Additional gains will be delivered through the provision of integral bird boxes through the scheme.

Small Heath Butterfly

5.2.16 This species "*occurs on grassland where there are fine grasses, especially in dry, well-drained situations where the sward is short and sparse*[2]*".* There is an opportunity to provide a more diverse grassland habitat in the ancient woodland buffer, in particular through increasing the diversity of caterpillar food plants such as fescues, meadow grass and bents. Measures to deliver this can be set out within a LEMP to be secured by condition.

5.2.17 Whilst the scheme cannot retain all the grassland which could be used by this species, the opportunity to increase the diversity of retained areas for this species are considered appropriate to the scale of impact, this minimising impacts on this species.

5.3 Statement of Case

5.3.1 Within this section I have set out the key statements set out by the Council and addressed them in turn.

Council Statement

5.3.2 *With respect to grounds of refusal 3 and 5, the appellant submitted an ecological and biodiversity assessment (Dated October 2022) with the original planning application which has been supplemented with responses to comments made by Surrey Wildlife Trust and the Council's ecologist. The conclusions of the assessment by the appellant's ecological consultant were that there would be no significant adverse effects on sensitive receptors being the habitats and certain species (bats, hedgehogs and birds) found on the site. The overall conclusion of the assessment was that the proposed development would meet Local Plan Policy DP19 by promoting nature conservation management and providing a multi-functional green infrastructure and bringing the*

[2]Butterfly Conservation (https://butterfly-conservation.org/butterflies/small-heath#:~:text=Lifecycle-,Habitat,moorland%20and%20in%20woodland%20rides.

ancient woodland parcel into active management for nature conservation and local pedestrian use.

My Response

5.3.3 The evidence gathered in relation to sites, habitats and protected species in 2022 and 2024 provides a robust evidence base to identify the relevant ecological features on site, to assign them a scale of importance, to enable assessment of potential impacts during the construction and operational phases of the development and to identify appropriate mitigation measures. This is set out in the ES chapter and appendices submitted with the application and within the updated ES and this proof of evidence which includes the updated ecology baseline from 2024.

5.3.4 On the basis of this updated information, I would expect that a number of areas of common ground can be agreed in relation to ecology and biodiversity, in order to focus maters to be addressed at the inquiry. In order to progress this, I have made contact with Mr Alistair Baxter (via email on the 13/08/24), who is representing the Council on matter related to ecology. I am awaiting a response from Mr. Baxter and will provide additional evidence following those discussions as appropriate.

5.3.5 Based on the considerable evidence base presented, it is my professional opinion that the appeal scheme has followed the mitigation hierarchy. Key impacts on relevant ecology features have been avoided through scheme design, notably the buffers to the woodland and hedgerows, and further means of mitigation have been delivered through sensitive lighting design, as well as standardised precautionary working methods to avoid impacts on protected species. The scheme also delivers a package of ecological enhancements to retained habitats and through the provision of ecological provisions such as bird and bat boxes and a hedgehog highway. No means of compensation for habitats or species is required as part of the scheme.

5.3.6 On this basis, I do consider that the scheme is compliant with both national and local policy in relation to ecology and biodiversity.

Council Statement

5.3.7 *The Council's ecologist recommended that the application was refused for the following reasons:*

- *The site is within a AONB and a development of this density would impact on the important and irreplaceable habitats present within the AONB.*

My Response

5.3.8 The area of land to be developed falls entirely outside of the AONB. All of the habitats which may be directly impacted are outside of the AONB boundary, as shown at figure 6. The habitats to be directly impacted comprise improved grassland which is not an irreplaceable habitat.

5.3.9 Part of the ancient woodland in the north of the site sits within the AONB, however, the scheme provides a 15 metre buffer between any built form and the woodland. This buffer and the additional ecological mitigation and enhancement measures will ensure that the scheme does not have any material negative impact on the woodland. I therefore do not agree with the statement made by the Council's Ecologist; rather I consider that the proposed development will deliver measures which are likely to result in enhancement.

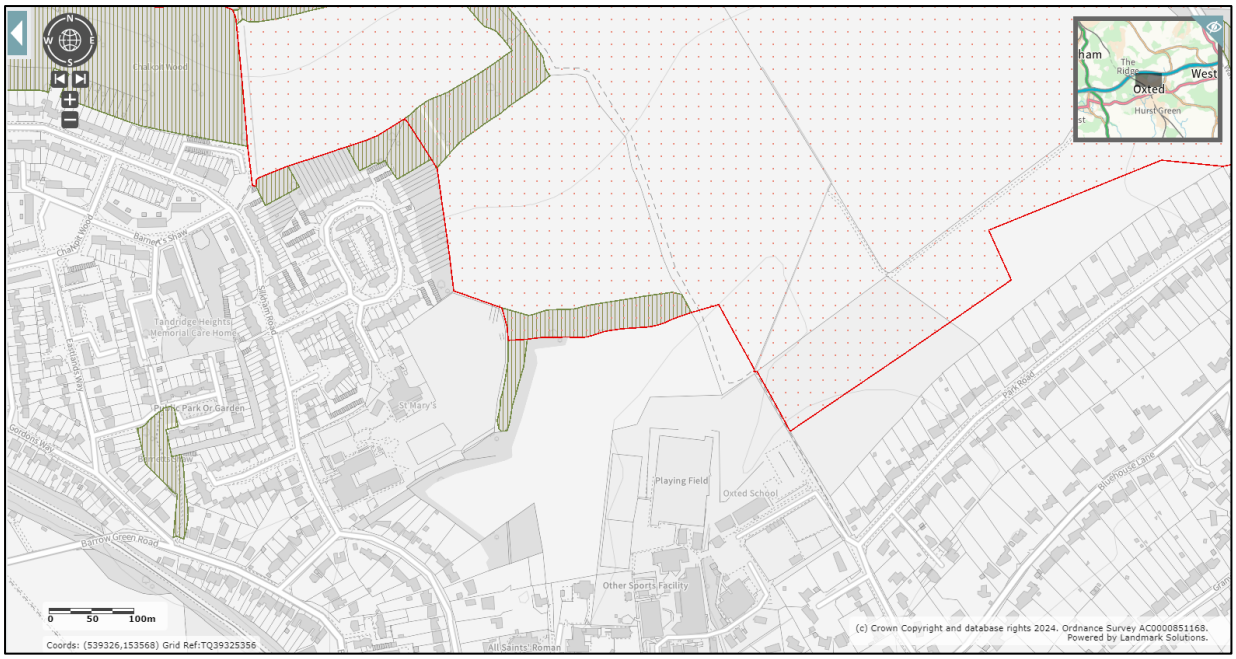

Figure 6 AONB (redline) and Ancient Woodland (green hatching) boundaries

Council Statement

5.3.10 *Due to the density of development, and the lack of protective measures, there is a high risk of deterioration and loss of on-site and offsite ancient woodland habitats due to recreational pressure and other urbanizing effects.*

My Response

5.3.11 My evidence has set out the avoidance and mitigation measures that will be delivered to ensure there is no material negative impact on the ancient woodland. The buffer being provided is entirely in accordance with Natural England/Forestry Commission guidance as Mr Carter explains in his evidence. The buffer and woodland will not be accessible to the public, which will allow the woodland to naturally develop and will enable the buffer area to be managed for nature conservation which will enhance the immediate setting of the woodland. Anyone accessing the woodland without the owner's permission does so unlawfully. I do not consider that it is appropriate to assess the impact of the proposed development on the basis of an assumption that people will engage in unlawful activity.

5.3.12 My evidence also considers the proximity of other ancient woodland, notably Chalkpit Wood to the north of the site. Within this, I have noted that there is no permitted public access to this woodland, and no reason to assume that residents from the appeal scheme will pursue unpermitted, and thus unlawful, access or anti-social behaviour within the woodland.

5.3.13 On this basis, it is my professional opinion that the scheme will not have a negative impact on ancient woodlands.

Council Statement

5.3.14 *Due to lack of offsite survey, there is a risk that a chalk headwater stream will be culverted and polluted by the proposed development. Chalk Streams are a Priority Habitat under the Natural Environment and Rural Communities Act 2006.*

My Response

5.3.15 The Natural England Chalk Stream database indicates the potential presence of a chalk river to the east of the site (as shown at figure 8). This matches the potential water body shown on the map I have provided at figure 7 within my assessment for amphibians.

5.3.16 As I have set out at section 4.4.28 of my evidence, this water body is actually already culverted with no exposed water and is therefore not considered to be a priority habitat chalk stream.

5.3.17 It is expected that standard pollution measures to prevent water run off and pollution will ensure there is no pollution to this ditch during the construction phase, and that these measures will be detailed in a Construction Management Plan (CMP) which can be secured by condition.

5.3.18 It is understood that surface drainage water will discharged to this culvert, and this will be via a SUDs features (as shown at figure 9), this will therefore ensure there is no pollution to the culvert during the operational phase.

Figure 8 Chalk Rivers Map (Natural England data)

Figure 9 Drainage link to culverted ditch

Council Statement

5.3.19 *Due to the incomplete species surveys, there is a high risk that protected species could be disturbed, harmed, or killed; a similar point has been raised in the Planning Inspectorate's letter to the appellant of 29th July seeking confirmation when surveys*

that are referred to in the Ecology chapter of the Environmental Statement were undertaken, and further confirmation these surveys are representative of the current state of the environment.

My Response

5.3.20 My evidence and supporting appendices have set out the scope and findings of updated surveys undertaken in 2024 for bats, reptiles, badgers, birds, great crested newts and invertebrates.

5.3.21 The surveys have been undertaken in line with good practice and provide a robust basis for assessment of the ecological baseline of the site. This information has been used to identify the presence/absence of protected species, and assign scales of importance for nature conservation where appropriate.

5.3.22 This has been used to confirm appropriate measures to avoid impacts on protected species through the scheme design, for example through the provision of the buffers to the ancient woodland and hedgerows which are used by commuting and foraging bats.

5.3.23 The scheme is capable of avoiding or mitigating all impacts on protected species, and no compensation measures are required.

Council Statement

5.3.24 *Despite Biodiversity Net Gain being proposed within the application, there is no metric, or consideration of appropriate on- or off-site mitigation or Biodiversity Net Gain. These comments mirrored those of the Surrey Wildlife Trust (SWT) with respect to biodiversity considerations.*

My Response

5.3.25 Ecosupport Ltd. were commissioned by Cala Homes Ltd to undertake a Biodiversity Net Gain Assessment at the Site (Appendix 8). A condition assessment, in line with the Statutory Biodiversity Metric Technical Annex 1, was carried out on site (including the baseline of the proposed off-site scheme) by Gareth Ainscough MSc ACIEEM, Senior Ecologist and Adam Jessop MSc MCIEEM, Principal Ecologist (both employees of Ecosupport Ltd, on the 18th January 2024.

5.3.26 Habitats on site pre-development were identified in accordance with the categories specified for a UK Habitats survey using Habitat Definitions Version 2.0 (UKHab Ltd., 2023), with an appropriate condition assessment, also undertaken in line with the Statutory Biodiversity Metric Technical Annex 1. The area of identified habitats was calculated in hectares (ha), with the lengths of linear features measured separately in kilometres (km). For each habitat parcel, the dominant habitat type was selected, according to those defined by UKHab Ltd (2023).

5.3.27 Following this assessment the site was assessed as supporting a habitat baseline of 10.20 Habitat Units and 4.86 Hedgerow Units. Following the incorporation of the above measures into the DEFRA Statutory Biodiversity Metric and based on the proposed post-development layout, on site there was a calculated net loss of – 14.70% in habitats (or -1.50 habitat units) and the trading rules were not satisfied. There was a net gain of 11.72% (or 0.57 hedgerow units) for linear habitats on site.

5.3.28 As a consequence, the delivery of a total of at least 2.52 habitat units must be secured as part of a suitable offsite scheme. In order to address the trading rules within the DEFRA Statutory Biodiversity Metric, these units should comprise of 1.04 units of mixed scrub habitat and 1.48 units of a 'low' distinctness habitat type.

Council Statement

5.3.29 *As set out in ground of refusal 3, the LPA's case will be that the proposed development is contrary to the provisions of the NPPF because it has not been demonstrated that it will contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Likewise, the proposed development is contrary to the provisions of Core Strategy policy CSP17 and Local Plan policy DP19 because it has not been demonstrated that biodiversity will be protected, maintained and enhanced.*

My Response

5.3.30 I have addressed the above statement at several points in my evidence, notably section 5.2 which addresses matters in relation to the NPPF and minimising impacts and providing net gains for biodiversity. In turn, I consider that this evidence also demonstrates the scheme and the proposed mitigation and enhancement measures are in line with local policies CSP17 and DP19.

6 SUMMARY AND CONCLUSION

6.1 Surveys of habitats and protected species undertaken at the site in 2022 and updated in 2024 provide a robust basis for assessment of the ecological baseline of the site.

6.2 The surveys have identified the following relevant features for nature conservation: Ancient Woodland, Hedgerows, Hedgehog, Common Pipistrelle Bats, Breeding Birds and Small Heath Butterfly.

6.3 Material adverse impacts on the relevant features for nature conservation will be avoided and mitigated during both the construction phase and the operational phase of the development. These measures include a 15m buffer to the ancient woodland, buffers to the retained hedgerows, a sensitive lighting scheme and precautionary working methods during site clearance. These measures can be delivered through a CEMP and LEMP which can be secured by planning condition.

6.4 The scheme will deliver a 10% net gain in biodiversity to be secured through the onsite biodiversity enhancements and a total of 2.52 off site biodiversity habitat credits.

6.5 On this basis, my view is that the scheme is compliant with National and Local Policy and relevant legislation in relation to nature conservation as set out at section 3 of my evidence.

Appendix 1: Habitat maps

Appendix 2: Badger Survey

Appendix 3: Bat Survey

Appendix 4: Bird Survey

Appendix 5: Reptile Survey

Appendix 6: Amphibian Survey

Appendix 7: Invertebrate Survey

Appendix 8: Biodiversity Net Gain Assessment