

Appeal Ref: APP/Y0435/W/20/3251121
Application Ref: 19/01818/OUT

South Caldedotte

HB3/1
Summary Proof of Evidence in
respect of Ecology & Nature
Conservation

By

Alistair Baxter

BA (Hons), MA (Oxon), MSc, CEcol, CEnv, MCIEEM

July 2020

Quality Management	
Client:	Hampton Brook
Project:	South Caldecotte
Report Title:	HB3/1 Summary Proof of Evidence in respect of Ecology & Nature Conservation
Project Number:	1005263
File Reference:	5263 Summary Proof of Evidence DW/AB
Date:	28/07/2020

Copyright
The copyright of this document remains with Aspect Ecology. All rights reserved. The contents of this document therefore must not be copied or reproduced in whole or in part for any purpose without the written consent of Aspect Ecology.

Confidentiality
This report may contain sensitive information relating to protected species. The information contained herein should not be disseminated without the prior consent of Aspect Ecology. All records of Badger setts must remain confidential. Where this report is circulated publicly or uploaded to online planning portals, reference to Badger setts must be redacted and any maps pertaining to the locations of Badger setts removed from the document.

Legal Guidance
The information set out within this report in no way constitutes a legal opinion on the relevant legislation (refer to the relevant Appendix for the main provisions of the legislation). The opinion of a legal professional should be sought if further advice is required.

Liability
This report has been prepared for the exclusive use of the commissioning client and unless otherwise agreed in writing by Aspect Ecology no other party may use, or rely on the contents of the report. No liability is accepted by Aspect Ecology for any use of this report, other than for the purposes for which it was originally prepared and provided. No warranty, express or implied, is made as to the advice in this report. The content of this report is partly based on information provided by third parties. Unless otherwise stated, information obtained from any third party has not been independently verified by Aspect Ecology.

Contact Details
<p>Aspect Ecology Ltd Hardwick Business Park Noral Way Banbury Oxfordshire OX16 2AF t 01295 279721 e info@aspect-ecology.com w www.aspect-ecology.com</p>

1 Qualifications

- 1.1 My name is Alistair Baxter. I hold an Honours Degree and Masters of Arts in Biological Sciences from St. Catherine’s College, University of Oxford. In addition I hold a Masters of Science in Conservation from University College London, University of London and I am a full member of the professional Chartered Institute of Ecology and Environmental Management (CIEEM), a Chartered Ecologist and a Chartered Environmentalist, and a Director of Aspect Ecology, a practice that provides ecological planning and design advice to the public and private sectors.

2 Instructions

- 2.1 Following the refusal of application 19/01818/OUT, in February 2020, I was instructed to review the reason for refusal that relates to ecology and nature conservation.

3 Reasons for Refusal

- 3.1 Milton Keynes Borough Council’s decision on the application incorporates a single reason for refusal (Refusal two) that relates to ecology and nature conservation, and states:

“The proposal, by reason of the loss of a significant extent of Priority Habitats and other ecological assets, and a failure to demonstrate an acceptable mitigation of biodiversity impacts on site, would result in an unacceptable impact on biodiversity assets within the application site, contrary to NPPF policies 170 (d), 174 (b) and 175 and Plan : MK policies, NE2 and NE3 and Planning Practice Guidance / Natural Environment Guidance Paragraph: 024”.

4 Assessment

- 4.1 The Council’s concern is expanded upon within their statement of case which sets out that the concern centres around the loss of ‘lowland meadow’ Priority habitat at the appeal site. Aspect Ecology has undertaken a comprehensive range of ecology surveys,

updated in 2020, including commissioning detailed botanical survey work in respect of lowland meadow habitats.

Lowland meadow

- 4.2 In addition historical survey work from 1993 undertaken by English Nature is available in respect of the lowland meadow which records that at the time the grassland had been somewhat degraded through nutrient input and supported an elevated Rye-grass component (a negative indicator), but retained some botanical interest in places with here the grassland representing MG5 lowland meadow, with the remainder of the field representing MG6 non Priority grassland. The survey work concluded that, considering the relatively low diversity, the meadow was of local conservation interest only. This survey work has been available in the public domain since 1993 and has been widely published on central data bases since 2009. Hence, it was readily available to inform the site allocation process. Further survey work was carried out in 2018 to inform the application and in 2020 to inform this appeal. This work finds that the lowland meadow on the appeal site is confined to field F4 comprising ~0.76ha of habitat, with the habitat in a sub-optimal condition due to the patchy nature of the sward and the elevated frequency and abundance of Rye Grass, a negative indicator.
- 4.3 This represents ~0.2% of the County resource or ~2% of the Milton Keynes resource (prior to adjusting for the exclusion of F3, which if accounted for would place F4 at ~3.5% of the Milton Keynes resource).

Other biodiversity

- 4.4 In terms of other biodiversity, the majority of the appeal site comprises arable and pasture of limited ecological interest, which is bounded by hedgerows many of which classify as Priority habitats as does a very small orchard, albeit this is present in a domestic garden/amenity setting. Important ecological habitats are also represented by small areas of woodland, a small watercourse, a small number of native Black Poplar trees and a Wild Pear. Protected species recorded within the appeal site include a number of low importance bat roosts in buildings, foraging bats, a barn owl roost (non-breeding), low populations of Common Lizards and Slow-worms at the field margins

and foraging Badgers. In addition, a modest assemblage of breeding birds is present alongside a range of common mammal species.

Mitigation hierarchy

4.5 I consider how the mitigation hierarchy of ‘avoid, mitigate, compensate’ has been applied in respect of the lowland meadow Priority habitat. I note this is not an irreplaceable habitat type and it does not carry any form of designation, while it is not a high quality example of its community type. The appeal site is allocated and to deliver the policy requirement, it is not possible to retain the lowland meadow. Accordingly, it is necessary to mitigate and compensate for its loss. The availability of compensation as an option is confirmed in the Council Ecologist’s consultation response dated 10 December 2019.

4.6 Similarly, mitigation and compensation measures are available to address adverse effects on other Priority habitats, important habitats, protected species and other fauna. These measures can be secured via a Biodiversity Enhancement Scheme (BES) and a Habitat Management Plan (HMP) as requested by the Council’s Ecologist, as well as by off-site biodiversity offsetting.

Wildlife Corridors

4.7 A Wildlife Corridor runs along the A5 and includes a small part of the appeal site where pasture and hedgerows are present. These habitats are not of significantly elevated interest and accordingly, with reference to the mitigation hierarchy, avoidance is not strongly required in these areas. Rather I consider the loss of these areas can be fully mitigated by the creation of habitats of enhanced ecological value within a new corridor which will be extended along the entire length of the site and will include a re-routed and significantly enhanced channel for the on-site watercourse. Indeed, the current area of the A5 Wildlife Corridor which lies within the appeal site measures ~3.72ha in size whereas the post development enhanced Wildlife Corridor, comprising habitats of high ecological function, will comprise some ~5.42ha, providing a considerable net gain for this local designation.

4.8 A further Wildlife Corridor lies off-site adjacent to the appeal site’s northern boundary. This will be unaffected by the appeal proposals, save for some shadow cast from the buildings between mid-September and mid-April inclusive, and indeed will be

enhanced by the addition of a new adjacent linear corridor. This will effectively extend the width of the Wildlife Corridor which will be created within the appeal site over currently low value arable which will be replaced with high value habitats. The conservation management of these habitats will also be secured for the long term which I attach particular weight to.

Compensation

4.9 Policy NE3 of Plan:MK requires a net gain for biodiversity to be demonstrated at the appeal site by way of a metric. A local metric is not yet available and as an alternative the policy advocates the use of the Defra 2.0 metric. The Defra 2.0 metric is currently in Beta testing form and when the habitat 'lowland meadow' is entered into the baseline, it returns a result of 'bespoke mitigation' required. The level of bespoke mitigation can be determined by assessing the value of the habitat with reference to survey work and a number of assessment parameters, namely distinctiveness, condition, connectivity and strategic significance. I have determined the appropriate value based on this analysis and this can be inserted in the metric by use of a proxy input (which is necessary to enable to beta testing version of the metric to function for very high distinctiveness habitats). This then generates an output, which shows the shortfall in biodiversity units which require offsite compensation.

4.10 A range of offset compensation providers are highlighted in the Council Ecologist's consultation response, including the Environment Bank, who the appellant has approached to provide the offset. The Environment Bank has confirmed the availability of offset solutions in Milton Keynes District and a specific brief has been set for the provider. This requires the extent of lowland meadow creation/restoration to achieve a minimum increase over the extent lost from the appeal site of 33%. This mirrors the local BAP target to increase the extent of lowland meadow in Buckinghamshire and Milton Keynes. The Environment Bank has confirmed that it can provide the required offset at a cost of £1,680,000.00 plus VAT to secure a biodiversity net gain.

4.11 I would emphasize that this would secure the future of the lowland meadow resource. Presently, no protection is afforded to the habitat and it could be lost at any time should the agricultural regime alter in any way e.g. through applications of fertilizer, herbicide, more intensive cattle grazing, an absence of hay cuts or re-seeding. These

are real risks and should not be discounted, especially as the farmer is now at retirement age and a new land manager is likely to take on the farm.

4.12 The above proposal from the Environment Bank fully aligns with local policy NE3 which sets out that “Development proposals will be required to maintain and protect biodiversity and geological resources, and wherever possible result in a measurable net gain in biodiversity”. Accordingly, I consider that the appeal proposals are policy compliant.

4.13 Nonetheless, if the Inspector is of the mind that it is necessary for the scheme to go further and achieve a 10% net gain for biodiversity, the Environment Bank has confirmed that this could be offered for a further fee of £205,000 plus VAT (total fee £1,885,000 plus VAT). However, my view is that this is not required to satisfy policy.

5 Conclusion

5.1 In conclusion, I consider that the appeal proposals will lead to no significant harm to biodiversity while new habitat creation within the appeal site will ensure the function of the Wildlife Corridors is enhanced as well as providing opportunities for other wildlife within the green infrastructure. Residual losses of biodiversity will be compensated through an off-site solution which will provide an overall increase in lowland meadow in the District, in line with the aims and objectives of the local BAP and ensure the appeal proposals lead to a net gain for biodiversity. Accordingly, I consider that reason for refusal two is fully addressed.