

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

South Caldecotte

HB3/2
Proof of Evidence in respect of
Ecology & Nature Conservation

By

Alistair Baxter

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

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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>

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1 Qualifications, Background & Purpose of Evidence

1.1 Qualifications

1.1.1 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.

1.1.2 I am a Director of Aspect Ecology, a practice that provides ecological planning and design advice to the public and private sectors. I have over 20 years personal experience in carrying out Ecological Assessments relating to residential development, industrial, retail, educational, commercial, minerals, landfill and leisure schemes. I have advised on ecological matters for clients such as Crest Nicholson, Taylor Wimpey Developments, Bellway Homes, Persimmon Homes, Tesco Stores, Aldi, Big Yellow Self Storage, Extra MSA, Vopak, Wealden District Council, Surrey County Council, West Sussex County Council and the Highways Agency.

1.1.3 In particular, I am experienced in the assessment of potential effects arising from residential development of European Designations including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), Sites of Special Scientific Interest (SSSIs), non-statutory designations eg Local Wildlife Sites (LWSs) and a wide range of Priority and non-priority habitat types e.g. grasslands, heathlands, woodlands, orchards, hedgerows and trees. I am an experienced botanist and hold a particular interest in meadows, having first scientifically assessed this habitat type as far back as my undergraduate dissertation.

1.1.4 The evidence which I have prepared and provide in this proof of evidence is true and is given in accordance with the guidance of the professional institutions of which I am a member (CIEEM and Society for the Environment). I confirm that the opinions expressed are my true and professional opinions irrespective of by whom I am instructed.

1.2 Instructions and appeal proposals

1.2.1 Aspect Ecology was instructed by Hampton Brook in September 2017 to undertake an Ecological Appraisal to inform an outline planning application (19/01818/OUT) for a new strategic employment development, incorporating nine new warehouses, with offices, parking, and associated access and infrastructure. I attach the illustrative Masterplan and Landscape Strategy at Appendix AB1. I personally became involved in the project in February 2020.

1.3 Reasons for Refusal

1.3.1 The application was refused on the 26 February 2020 by Milton Keynes Borough Council, the second reason for refusal relates to ecology 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.’

1.3.2 The reason for refusal on ecology matters was informed by the Council Ecologist’s consultation response dated 10 December 2019, and therefore the comments raised by the Council Ecologist in their response are referred to in addressing the above reason for refusal. These centre on four main areas issues, namely the mitigation hierarchy (in respect of lowland meadow), species or habitats of protected and priority status, wildlife corridors and biodiversity net gain.

1.4 Purpose of my Evidence

1.4.1 My evidence assesses the likely effects of the appeal proposals on the biodiversity interest of the appeal site. I review reason for refusal 2, drawing on the available ecological survey data and scheme design information.

1.4.2 I discuss the potential effects arising from the appeal proposals on the ecology of the appeal site in my evidence under the following headings:

- Background and purpose of my evidence;

- Review of the biodiversity interest of the appeal site;
- Application of the mitigation hierarchy (in respect of lowland meadow);
- Potential for adverse effects on species or habitats of protected and priority status (other than lowland meadow);
- Potential for adverse effects on Wildlife Corridors;
- Compensation and biodiversity net gain.

1.4.3 Finally, my conclusions are drawn.

2 Review of Biodiversity Interest at the Appeal Site

2.1 Appeal Site Description and its Ecological Characteristics

2.1.1 The site is located in an urban edge location on the outskirts of Milton Keynes. The site is bound to the west by the A5 dual carriageway, beyond which is a mix of agricultural land and residential and commercial properties. To the north the site is bound by a railway line and embankment, beyond which lies Caldecotte Lake, residential dwellings and commercial properties. The site is bound to the east by V10 Brickhill Street and agricultural land. The A5 and V10 Brickhill Street connect at a roundabout adjacent to the south of the site.

2.1.2 The site itself comprises a mix of arable and pastoral agricultural land, as well as a residential property with numerous outbuildings. The individual fields within the site are bound by hedgerows, tree lines and areas of dense scrub. Mature trees, two small woodland parcels and an area of plantation woodland are present, as well as a stream, two garden ponds and an ephemeral waterbody.

2.1.3 A range of ecological survey work on the site as summarised below:

2.2 1993 Botanical Survey of Dropshort Farm

2.2.1 The 'lowland meadow' grassland at the appeal site was subject to a survey on 11 June 1993 by English Nature (see Appendix AB2) as part of a preliminary botanical survey and assessment of unimproved grassland in Buckinghamshire. At this time, the grassland was described as being managed through low intensity cattle grazing, although it was found that *"the grassland had been degraded through nutrient input but retains some botanical interest"*. As a result, the grassland community was considered to have *"a reasonably close similarity to NVC type MG5b (Centaurea nigra-Cynosurus cristatus pasture: Gallium verum sub-community) although the low diversity of much of the field suggests affinities to MG6 (Lolium perrene-Cynosurus cristatus pasture)"*. The survey report concludes that *"considering the relatively low diversity of the field it is of local conservation interest only"*.

2.2.2 This conclusion is reproduced within the Site Check Report for this grassland presently available on the MAGIC¹ database (see Appendix AB3). The difference between MG5 (lowland meadow) and MG6 (non-lowland meadow) grassland communities is discussed at para. 4.5.5 of the Ecological Appraisal (June 2019).

2.2.3 I would highlight that this survey work has been in the public domain for a considerable period (since 1993) and therefore was available to inform the site allocation process. In particular, it has been available within individual lowland grassland inventories on MAGIC since 2009, and then within the Priority Habitat Inventories on MAGIC since 2014. Accordingly, given Plan:MK was not submitted for consultation until 2018 and adopted until 2019, Milton Keynes Council would have had available to them this open source information at the time of forming policy SD14.

2.3 Ecology survey and assessment 2017/2018

2.3.1 The original work in 2017 and 2018 comprised a desktop study, extended Phase 1 habitat and general faunal survey, inspections of trees for their potential to support roosting bats, inspection surveys and dusk and dawn emergence / re-entry of buildings for bats, Badger surveys, breeding and wintering bird surveys, amphibian surveys and reptile surveys. The details of this survey work are set out in a report entitled 'South Caldecotte, Milton Keynes, Ecological Appraisal' dated June 2019 (CD A.37). This report was submitted alongside the outline planning submission (ref: 19/01818/OUT) for the site in 2019.

Lowland meadow

2.3.2 The area of grassland classed as Lowland Meadow (see UK Biodiversity Action Plan Priority Habitat Description at Appendix AB4(a)) on MAGIC was reported within Aspect Ecology's Ecological Appraisal (June 2019) to cover an area of 6.12ha, this figure having been taken from the MAGIC database and related to two fields identified as F3 and F4 on Plan 5263/ECO3 of the Ecological Appraisal (CD A.37). However, through undertaking habitat measurements to inform the Biodiversity Impact Assessment (para. 4.5.6) it is calculated that the grassland in fact covers an area of ~4.8ha with the

¹ MAGIC: 'Multi Agency Information for the Countryside' online database. The MAGIC website provides authoritative geographic information about the natural environment from across government. The information covers rural, urban, coastal and marine environments across Great Britain. It is presented in an interactive map which can be explored using various mapping tools that are included. Natural England manages the service under the direction of a Steering Group who represent the MAGIC partnership organisations. <https://magic.defra.gov.uk/>

remainder of the area within the fields being formed by other habitats, including the watercourse and scrub.

2.3.3 In line with Natural England's findings in 1993, Aspect Ecology's July 2018 survey recorded that the meadows were cattle grazed in nature, making survey of grasses more challenging, but nonetheless a good amount of data was collected. A key observation was the presence of a high incidence of Rye Grass *Lolium perenne* recorded, a species which is a sign of former agricultural improvement (undesirable seed/nutrient inputs from a nature conservation perspective – see final paragraph of the Priority Habitat Description for Lowland Meadows at Appendix AB4(a)) which may have arisen in part from recent supplementary feeding of cattle and the high incidence of dung remaining on the fields. This would suggest the classification of MG5 i.e. lowland meadow, may not be accurate across large areas. This observation mirrors that of Natural England's 1993 survey which recorded "*although the low diversity of much of the field suggests affinities to MG6*" i.e. not lowland meadow.

2.3.4 On-site observations of very low sward height, supplementary feeding, and heavily poached areas in 2018, indicated grazing intensity by cattle was relatively higher still than recorded in 1993.

Other biodiversity

2.3.5 The desktop study and Phase 1 Habitat survey confirm the absence of irreplaceable habitats, although other Important Ecological Features in the form of Woodland, Hedgerows, a small watercourse and mature native Black Poplar trees were recorded. A very small Priority Habitat Traditional Orchard was also recorded at the site, albeit in common with two of the three waterbodies, it lies within the grounds of the residential property forming part of the amenity interest rather than being managed to benefit biodiversity i.e. the small orchard forms the garden of the property. A third waterbody was recorded within the site, although was noted to be ephemeral in nature and often recorded as dry during site visits. Other habitats recorded at the site include grassland of variable improvement, arable land, ditches, dense and scattered scrub, trees, buildings and hardstanding.

2.3.6 Detailed faunal survey work confirmed a number of bat roosts of low conservation significance associated with the buildings, whilst bat foraging and commuting activity was relatively highest along the stream and adjacent pastoral fields. A small number

of more notable bat species (Barbastelle and Nathusius Pipistrelle) were recorded foraging/commuting, albeit with a low number of registrations, such that the site is not considered to be of high value for these species. Badger foraging scrapes and dung pits were recorded at various locations indicating the site is frequented by Badgers, although the presence of Badger setts was not confirmed. Waterbodies potentially suitable for the presence of Great Crested Newts, were found not to be used by Great Crested Newts when subject to Environmental DNA surveys. Low populations of Common Lizard and Slow-worm have been recorded at the site, with adult peak counts recorded at the northern site boundary adjacent to the off-site railway line. A total of 47 species of birds were recorded at the site during the wintering and breeding bird surveys, although only in small numbers, and 22 species were considered breeding or probably breeding. The majority of the breeding bird activity was recorded in association with the hedgerow network, particularly in the south of the site. Nonetheless, the site was not considered to be of particular ornithological interest, or to afford superior opportunities for wintering or breeding birds than the local area.

2.4 Update ecology survey and assessment 2020

2.4.1 Update work has been carried out by Aspect Ecology in 2020 in order to ensure that the current survey information is available to inform decision making, in line with the requirements of Circular 06/2005 (NPPF Footnote 56) (CD H.3), British Standard BS42020: Biodiversity (CD M.25) and CIEEM Advice Note on the Lifespan of Ecological Surveys (April 2019) (CD M.26).

Lowland meadow

2.4.2 In order to update the botanical survey data on the areas of the appeal site identified as lowland meadow on the MAGIC database and the Plan MK Proposals map, Aspect Ecology commissioned an update of the 2018 National Vegetation Classification Survey work carried out at the site in 2018 by Aspect Ecology. A specialist botanist was engaged from Blackstone Ecology with the results of this work presented at Appendix AB5.

2.4.3 To assist with the survey cattle had been removed from field F4 although this was not possible from field F3. A walkover of the fields was carried out to obtain a total species list for each field following which 5 quadrat samples were taken within the fields within

which species presence and cover values were recorded. Quadrat data was then analysed using the computer programme MAVIS² and the relevant NVC floristic keys³.

- 2.4.4 The survey was undertaken at the optimum time of year for such work. Recent cattle grazing of F3 may have slightly constrained grass identification, but did not significantly impede identification of herb species.

Field F3

- 2.4.5 Field F3 was noted to contain ridge and furrow with the ridge tops supporting a more diverse flora than the furrows. Areas of disturbance were also recorded where the ridge and furrow has been lost and there is an elevated incidence of weed species which was particularly the case to the west of the in field standard Oak tree (readily visible on an aerial photograph of the site – see Plan 5263/AP1 ‘Aerial Photographs’). These areas supported a lower botanical diversity. The survey work was restricted to the relatively more diverse areas of the field. Further, only the ridge tops were sampled so as to capture the areas of more diverse flora.
- 2.4.6 A total of 35 plant species were recorded within F3, including 25 forb species. The number of species recorded within each quadrat ranged from 12 to 16, with a mean of 14.6 species per quadrat. Of the 35 species recorded across F3, 27 (77%) were present within one or more quadrat.
- 2.4.7 Assessment of the data using MAVIS generates a 64.3 matching coefficient to MG6 *Lolium perenne-Cynosurus cristatus* grassland. This result reflects the relative scarcity of positive indicators of the MG5 community (lowland meadow) alongside the presence of injurious weeds and negative indicators. In particular, the frequency and abundance of Perennial Rye-grass *Lolium perenne* (constant within the sward), in combination with the frequency and abundance of White Clover *Trifolium repens* is indicative of some level of agricultural improvement.
- 2.4.8 Reference to the NVC floristic keys supports the MAVIS output of MG6, as does reference to the UK Habitat Classification (which the Defra 2.0 metric utilises – see section 6.3). Field Key with UK Habitat codes 29b / 30e most accurately reflecting the community (see Annex 2 of Appendix AB5).

² MAVIS: Modular Analysis of Vegetation Information System. UK Centre for Ecology and Hydrology.

³ British Plant Communities Volume 3: Grasslands and Montane Communities 1992 (Rodwell, J.S., Ed)

- 2.4.9 I have carried out a walkover survey of field F3 and I fully concur with the findings of Blackstone Ecology. The field does not display a particularly elevated botanical interest in terms of the presence and frequency of positive indicators while the incidence of indicators of agricultural improvement is characteristic of non-lowland meadow grassland types. I would also highlight, the quadrat samples were taken from the most diverse areas of F3. Accordingly, much of the botanical diversity of the field is below even this level.
- 2.4.10 This result closely aligns with the findings of English Nature's 1993 survey which also recorded the 'relatively low diversity' of the field and its affinity to MG6 as did Aspect Ecology's 2018 NVC survey.

Field F4

- 2.4.11 A total of 60 herbaceous species were recorded within F4, including 16 grass, 2 sedge and a wood-rush species. Numbers of species recorded within quadrats ranged from 15 to 30, with an average of 21 species per quadrat. Of the species recorded within the whole field, 39 (65%) were recorded within one or more quadrat. In comparison to F3, I note that F4 is significantly more species rich in nature with a higher number of species recorded per quadrat.
- 2.4.12 Based on the MAVIS analysis, the grassland community within F4 most closely matches MG6 *Lolium perenne-Cynosurus cristatus* grassland (matching coefficient of 62.57), which is not a dissimilar result to F3. This result is somewhat surprising given the marked difference in species richness and frequency of herb cover of MG5 (lowland meadow) indicators compared to F3.
- 2.4.13 Further interrogation of the data finds that due to the somewhat patchy nature of the sward, constant herb species are not fully represented in the quadrat samples which has influenced the MAVIS output. The output has also been influenced by the elevated frequency and abundance of Perennial Rye Grass which is a negative indicator of MG5. In this regard, from reference to the NVC floristic keys and walkover data, Blackstone Ecology conclude F4 supports an unimproved neutral grassland sward closely resembling MG5, but that the sward is in sub-optimal condition. I also note that no rare or scarce species of MG5 are present in F4 (or F3) as set out in Natural England's Technical Information Note on MG5 (see Appendix AB6).

- 2.4.14 This suggests that the sward may have been subject to some disturbance which has locally reduced levels of cover of some of the species indicative of unimproved grassland. Alternatively, or in addition, the grassland may have been subject to some attempts at improvement or to mismanagement (in relation to the nature conservation ideal), possibly through over-application of farmyard manure or through chemical treatments, or through inappropriate stocking levels.
- 2.4.15 Nonetheless, I note that referencing the data to the UK Habitat Classification identifies the habitat as 28b (MG5), with F4 largely falling into its terms of reference as described in its field key: *“Cover of Rye grass (Lolium perenne), White Clover (Trifolium repens) and sown Red Clover (T. pratense) usually less than 10% cover. Typically rich in forb species (>15 m⁻²) with frequent Priority Habitat lowland meadow indicators”* (see Annex 2 of Appendix AB5). The exception however, is the abundance of Rye Grass which was recorded in each of the five quadrats at cover values of Q1: <4%; Q2: 11-25%; Q3: 34-50%; Q4: 34 – 50%; Q5: 4-10% (see Annex 1 of Appendix AB5) i.e. these values exceed the MG5 reference value in 3 out of 5 quadrats, demonstrating how the sward is sub-optimal in nature. In other words, the sward is not in ‘good’ condition and indeed is located somewhat along the continuum from MG5 towards MG6.
- 2.4.16 From my walkover survey of F4, I observed that it is clearly distinct from F3, with its elevated herb cover of MG5 indicators readily visible. Accordingly, I concur with the conclusions of Blackstone Ecology that F4 represents lowland meadow Priority Habitat MG5, albeit in sub-optimal condition. I note that F4 is separated from F3 by a watercourse and is accessible via only a single gateway, while it is of also a considerably smaller size compared to F3. Accordingly, it is likely to be slightly damper in nature and to have escaped the same grazing pressure and disturbance factors that F3 has been subject to, as it is more readily shut up. In addition, it potentially therefore may have had a more frequent hay crop taken from it, which is a beneficial conservation management technique, which has resulted in its elevated botanical interest compared to F3.

Other biodiversity

- 2.4.17 Update surveys have been carried out in 2020 in the form of a Phase 1 habitat and general faunal survey, bat roost assessments, Badger survey, and suitability assessment and survey of waterbodies for the presence of Great Crested Newts.
- 2.4.18 The findings of the 2020 work are set out in Technical Briefing Note TN03 (see Appendix AB7) and confirm that the site remains largely as previously assessed. Minor additional observations include, a Pear previously recorded as *Pyrus* Sp., within hedgerow H5, has been confirmed as Wild Pear *Pyrus pyraster*, and is considered to be an important ecological feature. In addition, a roost (non-breeding) for Barn Owl *Tyto alba* has been confirmed within a branch hollow in tree T5 (see Plan 5263/ECO3 Rev C at Appendix AB7).
- 2.4.19 Accordingly, the original conclusions from the Ecological Appraisal June 2019 remain valid in 2020.
- 2.4.20 Further, the ecological data has now been tested via an Environmental Impact Assessment (EIA) July 2020 (CD B.15). This concludes that following mitigation and compensation, no significant adverse ecological effects will occur and by contrast a measurable net biodiversity gain will be delivered by the appeal proposals.

3 Application of the mitigation hierarchy (in respect of lowland meadow)

3.1 Introduction

3.1.1 The Council's statement of case (CD K.12) sets out that application of the mitigation hierarchy is particularly relevant to the lowland meadow habitat at the appeal site.

3.2 Mitigation hierarchy

3.2.1 The mitigation hierarchy is the principle laid out at NPPF:175a, namely:

'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',

3.2.2 The discussion of this principle is expanded in the British Standard for Biodiversity BS42020 which sets out that the mitigation hierarchy is a sequential process where **Avoidance** is achieved through the selection of an alternative location for the development where no harm to biodiversity would occur, or through alternative scheme design/layout. Where avoidance is not possible, appropriate **mitigation** measures are employed to minimise harm, such an example would be the use of pollution interceptors within a scheme to minimise pollution of watercourses. Once all options for avoidance and mitigation have been fully considered, **compensatory** measures are undertaken to address any residual impact. Beyond the application of the mitigation hierarchy, developments should incorporate **enhancements** to provide new benefits for biodiversity.

3.3 Avoidance

Step one

3.3.1 As a first principle, harm to biodiversity assets should be avoided. The strength or weight to be attached to the need to avoid is a function of the habitat (or species) itself with this also applied in a hierarchical manner as follows.

- 3.3.2 Those habitats which are classed as ‘irreplaceable’ should be strongly avoided. Lowland Meadow is not classed as an irreplaceable habitat.
- 3.3.3 Secondly, those sites carrying statutory designations (international SACs/SPAs; national SSSIs) should be strongly avoided whilst avoidance is also relevant to locally designated sites (e.g. Local Wildlife Sites) dependent on their value. This is in line the NPPF:171 which sets out *that “Plans should: distinguish between the hierarchy of international, national and locally designated sites”* and as NPPF:170 emphasises, *“Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing....sites of biodiversity....value...(in a manner commensurate with their statutory status or identified quality in the development plan)”* i.e. appropriate weight should be applied to avoidance depending on the level of a habitat’s biological interest. The lowland meadow at the appeal site carries no statutory or non-statutory (local) designation and hence its biological interest sits below this level.
- 3.3.4 Lastly, undesignated Priority habitats should be considered and an appropriate weight (below that applied to irreplaceable habitats and those carrying statutory or non-statutory designations) applied to avoidance. This contextualised weight is further informed by reference to the quality of the Priority habitat with increased (contextualised) weight applied to high quality examples of the habitat with lower weight applied to lower quality examples of the habitat type. From reference to the survey work conducted at the lowland meadow (see section 2.4.2 - 16) at the appeal site, I note that it (field F4) is a lower quality example of the habitat type. This evaluation of the lowland meadow quality, is mirrored in the draft site specific SPD⁴ (CD G.2) which sets out that *“it is considered that the grassland represents a fairly poor quality example of lowland meadow habitat”*.
- 3.3.5 It is further noteworthy that this has been the case for a considerable period i.e. from at least 1993 (see Appendix AB2), and accordingly the future potential quality of the meadow under the current management is unlikely to improve.
- 3.3.6 The Buckinghamshire and Milton Keynes Biodiversity Action Plan 2020 records that there are some 383ha of lowland meadows present in the County, most of which are

⁴ Para 2.6. South Caldecotte Development Framework Supplementary Planning Document. Consultation draft. March 2019

found north of the Chiltern Escarpment due to the favourable soil types, with approximately ~26.89ha lying in Milton Keynes (see Plan 5263/LM1) due to the less suitable soil types. Field F4 supports some ~0.7646ha of lowland meadow which 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).

- 3.3.7 Accordingly, from this review it is clear that avoidance of the lowland meadow is desirable if possible, but should this not be achievable, given the undesignated status of the lowland meadow and that is a low quality example of the habitat type representing only a small percentage of the county/local resource, then the application of mitigation and compensation would be appropriate to consider (at a level commensurate to the interest of the habitat).

Step two

- 3.3.8 Having established the value of the habitat and the strength of avoidance that should be applied, it is relevant to consider if the site can be planned in an alternative way to avoid the loss of the meadow.
- 3.3.9 Reference to Plan:MK (CD E.1), finds that this was adopted in March 2019 and accordingly it is up to date in nature. The appeal site is an allocation in the Plan and it includes a site specific policy SD14 which sets out how the site should be developed. From my review of this policy I note that it contains no reference to lowland meadow. However, given that lowland meadow is shown on the Adopted Policies Map Sheet (4), is detailed in the site specific draft SPD (CD G.2) and survey work has been widely available since 1993 (see para. 2.2.3 above), I must conclude that the omission of any such restriction is a reflection that the Council's plan making team did not view the lowland meadow at the appeal site as a habitat of such value that it should be retained on site. Indeed, I note that the Inspector's report from the local plan⁵ (CD E.2) concludes *"The site is a relatively unconstrained greenfield site and any localised environmental impacts relating to local priority habitats and species on the site could be mitigated in accordance with the requirements of policies NE2 and NE3 of the Plan"*.

⁵ Report to Milton Keynes Council. The Planning Inspectorate. February 2019

- 3.3.10 I note that lowland meadow is referred to in respect of the South East MK Strategic Urban Extension at paragraph 5.28 of the Plan which states *“show how impacts on the lowland meadow priority habitat will be avoided and mitigated”*. Accordingly, the Plan places emphasis on this lowland meadow and the need to ‘avoid and mitigate’ in South East MK but does not place such a requirement on the South Caldecotte allocation.
- 3.3.11 This is reflected in the requirement in site specific Policy SD14 which requires the delivery of a minimum 195,000m² of floorspace. In order to lay the site out to deliver this minimum quantum of development it is necessary to utilise the area occupied by the lowland meadow, which is discussed in more detail in Mr Nicol’s and Mr Osborn’s proofs of evidence.
- 3.3.12 Accordingly, it is necessary to conclude that avoidance of the lowland meadow is not possible (see Mr Nicol’s and Mr Osborn’s proofs of evidence) while, as I discuss above, I consider due to the value of the habitat that it is appropriate to compensate for its losses.
- 3.3.13 My conclusion is also shared by MK Council’s Ecologist who sets out in their consultation response dated 10 December 2019 (see Appendix AB8) that *“If, after all other avenues have been thoroughly investigated, development would result in a biodiversity loss, off-site offsetting may be considered and there are a number of options for its provision”*.

3.4 Mitigation

- 3.4.1 The appeal proposals include a range of mitigation measures for biodiversity in general which are captured below under the heading ‘Compensation and biodiversity net gain’. However, in regard to lowland meadow specifically the proposals lead to the loss of the habitat type and accordingly it is necessary to compensate for this loss.

3.5 Compensation

- 3.5.1 As I discuss above, Lowland meadows do not constitute ‘irreplaceable habitats’ and accordingly they are readily re-creatable in nature and therefore suitable for

compensation. The same is true for other Priority habitats at the appeal site in the form of hedgerows and orchard.

3.5.2 Reference to Plan:MK (CD E.1) Policy NE1 finds this relates to ‘Protection of [designated] sites’. While I also have noted above that the lowland meadow on site does not carry a designation, as its interest sits below that of a designation, it is noteworthy that NE1, in dealing with all levels of designations, from SACs to SSSIs to local sites, includes the ability to allow development in these designations if there is a need for the development and suitable compensation is provided.

3.5.3 Accordingly, it also follows, as with NE1, that compensation is available for Priority habitats (e.g. lowland meadow) which are discussed at Policy NE2. The accompanying explanatory text to NE2 provides further details in respect of compensation and sets out at paragraph 12.23 that *“...Biodiversity offsetting is a proposed approach to compensate for habitats and species lost to development in one area, with the creation, enhancement or restoration of habitat in another area. Under this system any negative impacts on the natural environment would then be compensated for, or ‘offset’ by developers. The Council’s preferred approach is that compensation should be done on-site. Where compensation is not possible on site, appropriate enhancements will be sought on other land by provision of replacement habitat of higher quality to achieve a net gain in biodiversity”*.

3.5.4 Additional detail on how compensation could be applied in respect of lowland meadow at the appeal site is set out in the Council’s Biodiversity Officer’s response dated 10 December 2019 (see Appendix AB8) which states *“Offsetting may be provided on other land that is under the control of the developer and managed in an appropriate manner that maintains optimum biodiversity in perpetuity. The developer may nominate a third party such as the Environment Bank or a charitable trust to provide and manage the offset in perpetuity on their behalf. If neither of these options are possible, the developer may request the local authority takes the responsibility for the provision of the offset on payment of an appropriate fee that covers the creation and suitable management of the habitat for the benefit of biodiversity in perpetuity.....Any off-site offsetting shall be secured by a S106 agreement ...”*.

3.5.5 Accordingly, the Council's Biodiversity officer is in agreement that, if the loss of Lowland Meadow (and hedgerows and orchard) is necessary, its/their loss can be compensated for.

3.6 Conclusion

3.6.1 From my review above, in line with the requirements of NPPF:175a, it is clear that the mitigation hierarchy has been followed and it is appropriate to compensate for the loss of lowland meadow. This is fully acknowledged by the Council in policy and in consultation responses.

3.6.2 In addition, it is necessary to consider if the compensation proposals are appropriate and I do so below under the heading 'Compensation and biodiversity net gain', following a consideration of other biodiversity matters at the site.

4 Potential for Adverse Effects on Species or Habitats of Protected and Priority Status (other than lowland meadow)

4.1 Introduction

4.1.1 The ecological baseline at the site is documented with Aspect Ecology's Ecological Appraisal report June 2019 (CD A.37) alongside the mitigation, compensation and enhancement measures proposed, which are further updated within Aspect Ecology's note TN03 Update Ecology Surveys 2020 (see Appendix AB7) and expanded upon in Aspect Ecology's note entitled 'Biodiversity Impact Assessment' dated July 2020 (see Appendix AB9).

4.2 Irreplaceable and Priority habitats

4.2.1 Of the habitats on site, none represent irreplaceable habitats while many of the hedgerows and two of the small woodlands are Priority habitats. The on-site orchard may potentially technically meet the definition of Priority habitat (see Appendix AB4b), albeit it is not recorded as so on the national orchard data base, and would represent a poor example of the habitat type with its value further limited by its very small size and location in a domestic garden.

4.2.2 In addition, the Council Ecologist's consultation response dated 10 December 2019 (Appendix AB8) raises a query as to whether any veteran trees are present, an irreplaceable habitat type. However, the trees at the appeal site have been surveyed in detailed by Aspect Arboriculture and reference to the Arboricultural Impact Assessment report (CD A.16) finds that no veterans are present.

4.2.3 The consultation response also notes ponds are a Priority habitat, however I would highlight that this is an error as the ponds on site do not qualify in this regard as they do not meet the criteria within UK Biodiversity Action Plan Priority Habitat Description⁶ (see Appendix AB4c).

⁶ UK Biodiversity Action Plan Priority Habitat Descriptions. JNCC. 2008

4.3 Habitat compensation

- 4.3.1 The masterplan incorporates green infrastructure with this located most prominently at the site margins. To deliver the masterplan it is not possible to retain the internal ecological features for the most part. However, habitat losses can be compensated for (including for Priority habitats such as hedgerows) and provision is made under Policy NE3 to ensure that losses are fully accounted for by the use of a metric and a net gain for biodiversity achieved under any proposals (see section 6).
- 4.3.2 The ecological enhancement of the available green infrastructure has been considered as set out on the Illustrative Landscape Strategy Plan (see Appendix AB1) and expanded on plan 5263/EN1. This sets out a wide suite of habitat and faunal enhancements that will be brought forward within the green space on site.
- 4.3.3 In particular, I would highlight that the lowland meadow (field F4) will be translocated so as to ensure this is retained on site within the green space along the western site boundary, hence expanding the Milton Keynes Wildlife Corridor through the provision of species rich grassland. The detail of how this will be achieved will be provided at the reserved matters stage and would likely take the form of either preparing the receiving soils, taking a green hay cut or similar and spreading this to allow seed drop or through translocation of the soils or turfs from F4.
- 4.3.4 In addition, cuttings will be taken from the existing native Black Poplar trees on site and these grown on at local nurseries. The established new trees will then be re-planted onto the site along the new watercourse. Likewise, fruit will be harvested from the Wild Pear and seeds will be planted and grown on in a local nursery. If these are successful then the resulting young trees will be planted back out onto site within the green infrastructure post development.
- 4.3.5 In summary some ~4.67ha of meadow will be created, alongside ~3.7ha of amenity grassland, ~3.2ha of woodland, ~0.96ha of scrub, ~0.76ha of SUDs, ~2.75km of hedgerows, ~0.79km of lines of trees and ~0.78km of watercourse (see Appendix AB9 and plan 5263/EN1).

4.4 Faunal species

4.4.1 Faunal species sit outside of the metric, and appropriate mitigation for fauna is addressed at section 6 of the Ecological Appraisal (CD A.37). Mitigation and enhancements include the provision of new opportunities for bats on site to offset losses of the buildings currently used, the provision of replacement bird nesting opportunities through the provision of new shrub and tree planting and a range of box types to attract differing species, new basking, foraging and hibernacula areas for reptiles and the provision of deadwood for invertebrates alongside enhanced freshwater conditions for aquatic invertebrates

4.5 Planning obligations

4.5.1 The Council's Ecologist has requested a Biodiversity Enhancement Scheme (BES) be provided and a Habitat Management Plan (HMP) for on-site biodiversity features as well as off-site biodiversity offsetting to demonstrate a measurable net gain for biodiversity is achieved. The Appellant is happy to comply with this request, although given the appeal is for outline permission, considers it appropriate for these documents to be conditioned.

4.5.2 The Council's Ecologist also requests a lighting scheme is produced, however I would highlight that this is already available⁷ (CD A.24). This includes specific measures to safeguard nocturnal fauna, including:

- Potentially significant effects from the operation phase lighting on residential and wildlife / habitat receptors can be managed to create a minimal night-time impact with the most noticeable lighting contribution being a small increase to local area sky glow;
- Lighting near wildlife / habitat areas is expected to be strictly controlled, and the majority of heavily landscaped areas and green corridors will remain unlit. There will be some street lighting as part of the access route through the site;

⁷ Lighting Assessment. BWB. July 2019

- A dark corridor has been provided along the V10 Brickhill Street between the A5 roundabout and site access roundabout. This corridor shall enable bats commuting between the linear park and open countryside to the east;

4.5.3 In particular, I would note that the assessment contains a lux plan which illustrates that a fully dark corridor is to be maintained along the wildlife corridor (see below) parallel to the A5 while elsewhere landscaped areas are largely dark in nature or illuminated to 1 lux, which is the level sought to accommodate nocturnal wildlife within recent industry best practice guidance⁸.

4.6 Conclusion

4.6.1 In conclusion, I consider that the potential for adverse effects on species or habitats of protected and priority status (other than lowland meadow) are fully mitigated and compensation (including through offsite measures) such that no harm will arise to these interests.

⁸ Guidance notes for the reduction of obtrusive light' Institution of Lighting Professionals` (2011), the Bat Conservation Trust's 'Artificial Lighting and Wildlife – Interim Guidance: Recommendations to help minimise the impact of artificial lighting' (2014) and the document Bats and lighting: Overview of current evidence and mitigation guidance (Stone, E.L. 2013)

5 Potential for Adverse Effects on Wildlife Corridors

5.1 Introduction

5.1.1 The Council's Ecologist makes reference to two designations within their consultation response dated 10 December 2019 (see Appendix AB8), namely the Wildlife Corridor along the A5 and the Wildlife Corridor along the Marston Vale Railway line.

5.1.2 These are discussed at section 3.2 of Aspect Ecology's Ecological Appraisal June 2019 (CD A.37). The Milton Keynes (MK) Wildlife Corridor along the A5, lies partially within the site and the MK Wildlife Corridor along the Marston Vale Railway line lies off-site adjacent to the northern site boundary.

5.1.3 Wildlife Corridors are defined at paragraph 12.11 of Plan:MK (CD E.1) as *"Wildlife Corridors in Milton Keynes are a specific designation to Milton Keynes and represent linear pathways of habitats that encourage movement of plants and animals between other important habitats. These are treated in the same way as LWSs in Milton Keynes"*.

5.2 Wildlife Corridor along the A5

5.2.1 The Council Ecologist, within their consultation response dated 10 December 2019, in relation to the Milton Keynes Wildlife Corridors states *'it is likely [my emphasis] that their immediate area has higher species richness and diversity and this presents significant opportunity for development to be completed in a manner than enhances biodiversity through the provision of wildlife features'*, and advises *'it is essential that retained or newly created Wildlife Corridors are sufficiently wide in order to continue to provide enough undisturbed space for the feature to continue to provide benefits for wildlife'*.

5.2.2 The location of the Wildlife Corridor is shown on Polices Map Sheet 4 (CD E.1), which can be seen to extend along the roadside for the most part before extending into the site to take in an area of pasture and hedgerows. I note the Ecological Appraisal does not find these to be of significantly elevated interest (as the habitats are of only low or moderate distinctiveness and of relatively low ecological function) and accordingly, with reference to the mitigation hierarchy, avoidance is not strongly required in these areas. These losses will be fully mitigated by the creation of habitats of enhanced

ecological value e.g. enhancement of retained hedgerows, creation of native species-rich grassland, pockets of native woodland and native scrub planting, new native hedgerow planting and relocation of the watercourse to this location within an ecologically extended and enhanced channel with associated wetland features (see Appendix AB1). Reference to the site Landscape Strategy (see Appendix AB1) shows that under the appeal proposals, habitats of elevated ecological function will be extended to the north within a linear park such that the Wildlife Corridor will in turn effectively be extended. I consider this would provide an overall net betterment under the scheme. 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. Moreover, under the appeal proposals a conservation management plan will be put in place to secure the value of the Wildlife Corridor for the long term to which I afford particular weight, as the value of biodiversity habitats is directly related to their appropriate management.

5.3 **MK Wildlife Corridor along the Marston Vale Railway line**

5.3.1 Reference to Polices Map Sheet 4 (CD E.1) finds that this designation is located adjacent to the northern site boundary, associated with the railway corridor. This will be unaffected by the appeal proposals save for some shadow cast from the buildings between mid-September and mid-April inclusive⁹, albeit this is reduced by the set back and well spaced nature of the structures.

5.3.2 Moreover, there is an opportunity to significantly enhance the ecological functionality of the Wildlife Corridor. The adjacent habitats within the site currently comprise arable under intensive cultivation of very limited wildlife value. Under the appeal proposals new habitats of native wildflower grassland, scrub, hedgerows and tree planting will be created which will serve to very significantly increase the function of the wildlife corridor. The conservation management of these habitats will also be secured for the long term which again I attach particular weight to.

⁹ As determined using the online tool SunCalc

5.4 Conclusion

- 5.4.1 In conclusion, following the review above, I consider that the function of the both Wildlife Corridors will be enhanced under the appeal proposals and the future conservation management of the on-site habitats will be secured for the long term.

6 Compensation and Biodiversity Net Gain

6.1 Introduction

6.1.1 As I discuss above, in order to deliver the allocation, avoidance of effects on all habitats within the appeal site, including lowland meadow, is not achievable for the most part. Accordingly, compensation for their loss is desirable.

6.1.2 Planning Policy Guidance for the Natural Environment¹⁰ (CD H.2), at paragraph 24, provides guidance as to how the mitigation hierarchy fits with biodiversity net gain and sets out: *"Biodiversity net gain complements and works with the biodiversity mitigation hierarchy set out in NPPF paragraph 175a. It does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Local planning authorities need to ensure that habitat improvement will be a genuine additional benefit, and go further than measures already required to implement a compensation strategy"*.

6.1.3 In this instance, I consider compensation is likely to be a preferential biodiversity outcome, as any compensation will be situated in a location which is more appropriately placed to deliver biodiversity benefits as it will be closely linked to other biodiversity features in the rural landscape (see Appendix AB10a). By contrast, should lowland meadow be retained on site, it would become subsumed into an urban setting, with reduced links to other such biodiversity features.

6.2 Policy

6.2.1 Policy NE3 of Plan:MK deals with Biodiversity Enhancement and sets out under part C that *"Development proposals of 5 or more dwellings or non-residential floorspace in excess of 1,000 sq. m will be required to use the Defra metric or locally approved Biodiversity Impact Assessment Metric to demonstrate any loss or gain of biodiversity"*.

6.2.2 At the present time a local metric is in development being led by the Nature Environment Partnership for Buckinghamshire and Milton Keynes¹¹ based on the Defra

¹⁰ <https://www.gov.uk/guidance/natural-environment>

¹¹ Biodiversity Accounting Supplementary Planning Document. Version 1. Buckinghamshire and Milton Keynes Natural Environment Partnership. March 2020

2.0 metric which will accompany a future local SPD¹². The SPD is currently in draft form, but does not yet comprise policy (see Appendix AB11a), while a local metric is not yet available. The local SPD has been informed by a county wide model SPD¹³ (see Appendix AB11b), which is also available for review. The generic model SPD advises that prior to a local metric being available, applicants are recommended to use the latest Warwickshire County Council Biodiversity Impact Assessment calculator¹⁴. However, I would highlight that this is not based on the Defra 2.0 metric, as the new local metric will be, and is substantially different in its construct (predating the Defra 2.0 approach), such that it is not analogous to the updated methodology employed in the Defra 2.0 metric¹⁵, nor was its use in the interim endorsed by the LP examiner. On this basis, the Defra 2.0 metric, as specified in Policy NE3, has been used to run a Biodiversity impact Assessment at the appeal site.

6.3 Biodiversity impact Assessment - concept

6.3.1 The metric is a spreadsheet based tool which accounts for the baseline habitats within the site and new habitats to be enhanced, restored or created. Further details are set out in its User Guide¹⁶: *“Biodiversity units are calculated using the size of a parcel of habitat and its quality. The metric uses habitat area as its core measurement, except for linear habitats where habitat length is used. To assess the quality of a habitat the metric scores habitats of different types, such as woodland or grassland, according to their relative biodiversity value. Habitats that are scarce or declining typically score highly relative to habitats that are more common and widespread. The metric also takes account of the condition of a habitat. The metric accounts for the location of the habitat relative to other similar habitats to measure its connectedness in the landscape. Being ‘better’ and ‘more joined-up’ are important facets of habitats that can contribute to halting and reversing biodiversity declines. Last, the metric also accounts for whether or not the habitat is sited in an area identified locally, typically in*

¹² Biodiversity Supplementary Planning Document. Milton Keynes Council. Undated. First made available at the Planning Cabinet Advisory Group July 2020.

¹³ Biodiversity Accounting Supplementary Planning Document. Version 1. Buckinghamshire and Milton Keynes Natural Environment Partnership. March 2020

¹⁴ <https://www.warwickshire.gov.uk/biodiversityoffsetting>

¹⁵ Defra 2.0 includes a larger range of habitat types including green infrastructure for the urban environment; more guidance on difficulty and time to target condition for each habitat type; is prepopulated with distinctiveness, time to target condition and difficulty scores; includes new distinctiveness scores (0-8) to include very high and very low; includes new condition scores (0,1,1.5,2,2.5,3); includes two new elements ‘Connectivity’ and ‘Strategic Significance’; includes ‘accelerated succession’; includes off-site habitat options and takes account of proximity to the impact site.

¹⁶ The Biodiversity Metric 2.0. User Guide. Natural England Joint Publication JP029. July 2019

a relevant policy of plan, as being of significance for nature. Where new habitat is created or existing habitat is enhanced the difficulty and associated risks of doing so are taken into account by the metric. If habitat is created to compensate for losses elsewhere, then the metric also takes account of its proximity to the impact site. The metric incentivises delivery that is on or close to the impact site”.

6.3.2 At the present time the Defra 2.0 Metric remains as a beta testing version and a further update is anticipated when it is finalised. Nonetheless, it is currently being widely referenced in beta testing form. A Biodiversity Impact Assessment (BIA) of the site has been undertaken utilising the Defra 2.0 Metric, the results of which are set out in Aspect Ecology’s note entitled ‘Biodiversity Impact Assessment’ 23 January 2020 (CD A.39). Comments on the Biodiversity Impact Assessment were received in the consultation response from the Council Ecologist dated 05 February 2020 (see Appendix AB12). In order to provide clarification as to how the BIA has been carried out I discuss the process below while I have also re-run the metric myself utilising the results of the 2020 update survey work (see Appendix AB9).

6.4 Biodiversity Impact Assessment – treatment of Lowland Meadow

6.4.1 The first step in the BIA process is to enter the habitats present on the appeal site within the baseline section of the spreadsheet. When Lowland Meadow is inputted to the spreadsheet it generates an output: ‘bespoke compensation likely to be required’. This is automatically generated when any habitat of ‘high distinctiveness’ is present.

6.4.2 The generation of the advisory of ‘bespoke compensation likely to be required’, effectively prevents the metric from being run. Accordingly, to move forward, it is first necessary to determine what level of bespoke compensation is necessary so this can be entered into the metric.

6.4.3 In terms of lowland meadow, the bespoke compensation required, will be dependent on the value of the existing habitat. This is defined (under the Defra 2.0 metric) by reference to its distinctiveness, condition, connectivity and strategic significance. I discuss each of these parameters below:

6.4.4 Distinctiveness: The Defra 2.0 metric defines the distinctiveness of lowland meadow as ‘very high’ which is a pre-set parameter.

- 6.4.5 Condition: A review of the survey work undertaken (see paragraphs 2.4.2 – 16 above) finds that the habitat (contained in field F4) is currently in poor to moderate condition with reference to the criteria set out in the Technical Supplement¹⁷ (see Appendix AB13a). This is due to the somewhat patchy cover of herbs and the elevated frequency and abundance of Rye-grass, most likely as a result of attempts at improvement or through mis-management. Referring to the metric, the available condition parameter mid value between ‘poor’ and ‘moderate’ is ‘fairly poor’. However, I have taken a cautious approach and set the metric to ‘moderate’ for condition.
- 6.4.6 Connectivity: The User Guide (see Appendix AB13b) sets out how the connectivity parameter should be populated: *“Connectivity (high, medium and low) – N.B. in the beta version of the biodiversity metric 2.0 these scores should be set at ‘low’ for low and moderate distinctiveness habitats and ‘medium’ for high or very high distinctiveness habitats in the absence of local data.”* Accordingly, the ‘medium’ parameter has been used¹⁸.
- 6.4.7 Strategic significance: In the consultation response dated 05 February 2020 (see Appendix AB12) the Council’s Ecologist comments that *“The submitted BIA also states that this area of priority habitat is of low strategic significance, which I believe is incorrect as priority habitats are covered in Plan:MK policy NE2:b, NPPF 174:b and Natural Environment Guidance: paragraph 024”*.
- 6.4.8 Instructions on how to populate this parameter of the metric are set out at paragraph 5.30 in the User Guide (see Appendix AB13b). This states: *“The idea of strategic significance works at a landscape scale. It gives additional unit value to habitats that are located in preferred locations for biodiversity and other environmental objectives. Ideally these aspirations will have been summarised in a local strategic planning document which articulates where biodiversity is of high priority and the places where it is less so. Strategic significance utilises published local plans and objectives to identify local priorities for targeting biodiversity and nature improvement, such as Nature Recovery Areas, local biodiversity plans, National Character Area objectives and green infrastructure strategies”*.

¹⁷ p19. The Biodiversity Metric 2.0. Technical Supplement. Natural England Joint Publication JP029. July 2019

¹⁸ A new connectivity tool is also available, however this did not appear to function for this habitat on site and Natural England technical support is currently unavailable to resolve this issue. Accordingly, this tool has not been used.

6.4.9 Reference to User Guide finds that these are landscape scale areas identified for nature improvement. In the context of Milton Keynes, these would be represented by the Biodiversity Opportunity Areas (BOAs) and the local biodiversity action plan. The appeal site does not lie within a BOA (see Appendix AB14) but lowland meadow is included in the Buckingham and Milton Keynes BAP (see Appendix AB15a). Accordingly, I concur with the District Ecologist and the ‘strategic significance’ value in the metric should be set to ‘within area formally identified in local strategy’.

6.4.10 Value in Biodiversity Units of lowland meadow at the appeal site: Following a review of the above parameters, and with reference to the survey work at the site, I consider the lowland meadow at the appeal site represents an unremarkable example of the habitat type and accordingly it is my view that in this case no upward bespoke adjustment of its value is required. As such, it is appropriate to utilise the stepwise scoring within the metric to define its baseline value.

6.4.11 Although the beta testing version of the metric does not generate this score automatically, the appropriate value can be calculated for ‘very high distinctiveness’ habitats by reference to the difference in biodiversity units between the other habitat distinctiveness bands, with all other parameters remaining unchanged. I present this calculation in Table 4.1 below:

Habitat type	Area	Distinctiveness	Condition	Connectivity	Strat Sig	Units	Difference
Modified grassland	0.7646	Low	Moderate	Medium	Within area	3.87	N/A
Other neutral grassland	0.7646	Medium	Moderate	Medium	Within area	7.74	3.87
Upland calcareous grassland	0.7646	High	Moderate	Medium	Within area	11.61	3.87
Lowland Meadow	0.7646	Very high	Moderate	Medium	Within area	15.48	3.87

Table 4.1 Scoring differences between habitats of differing distinctiveness types

6.4.12 Accordingly, I calculate that the baseline value of the lowland meadow at the appeal site is 15.48 biodiversity units.

6.5 Use of a proxy input

6.5.1 To enable the metric to function (as the beta testing version does not currently work for ‘very high distinctiveness’ habitats), it is necessary to substitute the lowland meadow habitat with a proxy input. In this case ‘lowland calcareous grassland’ has been selected as the proxy and the parameters set to ensure at least the same number (15.48) of baseline biodiversity units are achieved. The closest output that can be

achieved under the metric is 15.83 biodiversity units and I adopt this more generous value, adding a further layer of precaution to my assessment.

6.5.2 The use of a proxy in this manner has been discussed with the Environment Bank who is in agreement that this is an appropriate approach (see Appendix AB10b).

6.5.3 The above clarification addresses the Council Ecologist's comment in their consultation response of 05 February 2020 that *"The BIA metric submitted in support of the proposal is unacceptable. Although the BIA metric contains a Lowland Meadow classification, the developer's ecologist has chosen to classify the area of Lowland Meadow as "Grassland – Other Neutral Grassland" [NB: the proxy input used at that time] which is incorrect..... However, if the correct habitat classification of poor condition Lowland Meadow is entered into the metric, the calculator states "Any Loss is Unacceptable". It is not the prerogative of the developer to down-grade a habitat classified as a priority habitat and manipulate the BIA metric in order to generate the result they desire"*.

6.6 Biodiversity Impact Assessment - calculation

6.6.1 Following the determination of the bespoke baseline value, in terms of biodiversity units, of the lowland meadow, the metric can be fully run, utilising the survey results to populate the baseline and the landscape proposals set out on the Illustrative Landscape Strategy Plan (see Appendix AB1) to populate the future habitats to be created. I set out the methodology utilised and output of the metric at Appendix AB9. This shows a net loss of some 166.07 biodiversity units.

6.7 Compensation – net biodiversity gain

6.7.1 To compensate for the short fall in biodiversity units, it is necessary to seek an offsite compensation solution. This option is discussed in the Council Ecologist's consultation response dated 10 December 2019 which states: *"If, after all other avenues have been thoroughly investigated, development would result in a biodiversity loss, off-site offsetting may be considered and there are a number of options for its provision. Offsetting may be provided on other land that is under the control of the developer and managed in an appropriate manner that maintains optimum biodiversity in perpetuity. The developer may nominate a third party such as the Environment Bank or a charitable trust to provide and manage the offset in perpetuity on their behalf"*.

6.7.2 In this instance, the Environment Bank has been engaged as the off-set provider. A specific brief has been set for the provider, that 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 (see Appendix AB15b).

6.7.3 The Environment Bank has confirmed that it can provide the required offset at a cost of £1,680,000 plus VAT which would be delivered within Milton Keynes District to secure a biodiversity net gain (see Appendix AB10c). In particular, it would include:

- A biodiversity offset scheme adhering to local standards of delivery;
- Liaison with local planning authority on offset approval;
- Ecological assessment of the offset site;
- Negotiations with the offset landowner;
- Preparation of legal agreements for long-term offset delivery;
- A 30 year costed management and monitoring plan; and
- Monitoring and oversight of the offset site over 30 years with reporting to the LPA.

6.7.4 I would particularly highlight 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.

6.8 Quantum of biodiversity net gain

6.8.1 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.

6.8.2 I am aware that the forthcoming Environment Bill will introduce a statutory requirement for all development proposals to deliver a net gain for biodiversity set at

a level of 10%. This requirement is reflected in the model Biodiversity Accounting SPD¹⁹ (see Appendix AB11b) which sets out that *“The Local Authorities expect applications to deliver a minimum of 10% net gain with an aspiration to achieve 20% net gain to assist in meeting local Buckinghamshire and Milton Keynes Biodiversity Action Plan objectives”*, albeit this has yet to be taken up and adopted by Milton Keynes Council.

6.8.3 Accordingly, if the Inspector is of the mind that it is necessary for the appeal 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 of £1,885,000 plus VAT). However, my view is that this is not required to satisfy policy. If this were to be delivered, this would represent a net positive of the scheme as there is currently no requirement to deliver such ecological gain.

6.9 Conclusion

6.9.1 In conclusion, my evidence above demonstrates that the appeal proposals will achieve a measurable net gain for biodiversity, delivered onsite within a Biodiversity Enhancement Scheme (BES) and Habitat Management Plan (HMP), that have been requested by the Council Ecologist, and offsite by the Environment Bank, with these measures secured under the S106 and/or planning conditions.

¹⁹ Biodiversity Accounting SPD, Buckinghamshire and Milton Keynes Natural Environment Partnership. March 2020

7 Summary and Conclusions

- 7.1 Outline planning (19/01818/OUT) for a new strategic employment development at Caldecotte, incorporating nine new warehouses, with offices, parking, and associated access and infrastructure was refused by Milton Keynes City Council on the 26 February 2020. The second reason for refusal relates to ecological matters and raises concerns in respect of *“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”*.
- 7.2 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.
- 7.3 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.

- 7.4 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).
- 7.5 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.
- 7.6 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.
- 7.7 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.
- 7.8 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.

7.9 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.

7.10 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 the 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.

7.11 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.

- 7.12 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.
- 7.13 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.
- 7.14 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.
- 7.15 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.