

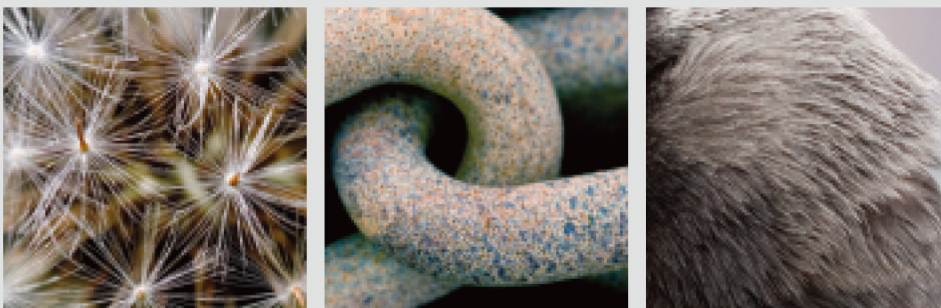
APP/2024/0122

Town and Country Planning Act 1990  
Appeal by Hargreaves Land Limited  
Land North of Hemingfield Road, Hemingfield, Barnsley

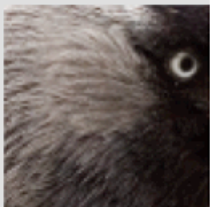
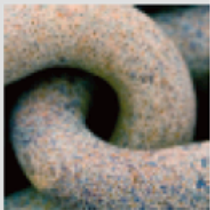
Statement on Ecology  
on behalf of the Appellant.

by

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# 1

## Qualification and Expertise

- 1.1.1 I, Andrew Baker, am Director of the ecological consultancy Baker Consultants Limited, which I established in March 2009. I hold the degree of Bachelor of Science with Honours in Botany from the University of Nottingham (1986). I have been a member of the Chartered Institute of Ecology and Environmental Management (CIEEM) since 1994 and I am now a Fellow of the Institute.
- 1.1.2 I have been a practising ecologist for over 30 years, having worked throughout the UK for organisations such as English Nature (now Natural England), Nottinghamshire Wildlife Trust, the Peak District National Park Authority, large civil engineering consultancies and private ecological firms. Much of my work involves providing expert advice to clients on Environmental Impact Assessments (EIA) and Habitats Regulations Assessments (HRA), of the impacts of development proposals on biodiversity, and how those impacts can be mitigated or compensated for. I have considerable expertise of the surveying and assessment of the ecological value of sites. I am an expert in the practical application of nature conservation law and I have considerable experience of the assessment of sites for Biodiversity Net Gain (BNG) under the Environment Act 2021 and the application of the Defra Metric which is used to measure BNG.
- 1.1.3 In my work in private practice, my clients come from the public, private and voluntary sectors. Public sector clients include Natural England, the Department of the Environment Transport and the Regions (as was), the Environment Agency and local planning authorities. My work for private clients includes numerous residential projects ranging from minor schemes to large urban extensions of 2000 plus units, and nuclear power stations. I am currently working on Hinkley Point C power station assisting in the development of the package of compensation measures arising from the HRA of the water-cooling system.
- 1.1.4 I am actively involved in the development of the ecological profession. I have published articles on EIA and protected species legislation. I am a member of the United Kingdom Environmental Law Association (UKELA) and a former convenor of its Nature Conservation Working Group. As convenor of the working group, I was responsible for coordinating comments on emerging wildlife legislation and policy.
- 1.1.5 I am currently a standing member on CIEEM's disciplinary board and I am frequently called upon to hear cases that are brought against members of the profession, often chairing the hearings.
- 1.1.6 I have considerable expertise in the practical application of nature conservation law and I have published widely on the subject including (along with Browne Jacobson Solicitors) the 2nd Edition of 'A Manual of Nature Conservation Law' edited by Michael Fry. Through my involvement in the UKELA I have been actively involved in the development of nature conservation law and planning policy that affects ecological issues. I have specific expertise of the practical application of this area of law and I teach on European and domestic nature conservation law and its

associated guidance and policy. In 2015 I was made a Fellow of CIEEM in recognition of my contribution to this field of work (along with my work on eco-acoustics).

- 1.1.7 I am frequently called upon to give evidence to both local plan examinations and public inquiries into individual planning applications and Development Consent Orders. I have also presented evidence to a Parliamentary Select Committee.
- 1.1.8 I declare that the evidence I have prepared and provided in relation to this planning appeal is true and I confirm that the opinions I express here are my true and professional judgements based on scientific evidence and my professional experience. I consider that my duties as a witness are to the planning appeal process / Inquiry and I present my evidence and professional views independently of the party that has called me to give evidence.

## 2 Background

- 2.1.1 Baker Consultants were commissioned in June 2023 to conduct an Ecological Appraisal and BNG assessment for the site. Further survey work was completed in 2023, however, due to seasonal constraints a full suite of surveys could not be completed and therefore additional survey work was undertaken in Spring 2024 to support the application. The ecological survey work which we have completed to support the application to date, is summarised below:

- Desk-based study consulting the local records centre and online databases to identify designated sites of nature conservation importance, areas of priority habitats and records of protected and/or notable species - 2023;
- UKHab Habitat survey to record the nature and extent of vegetation and habitats within and adjacent to the site - 2023;
- Appraisal of suitability for protected and/or notable flora and fauna - 2023;
- Habitat Condition Assessment - 2023;
- Baseline and post-development BNG assessment - 2023;
- Bat emergence surveys of existing farm buildings - 2023;
- Bat static detector deployments - 2023 and 2024;
- Bird static detector deployment – 2023 and 2024;
- Breeding bird surveys – 2024;
- eDNA survey for great crested newts – 2024; and,
- Hedgerow survey – 2024.

- 2.1.2 The Council's ecologist confirmed that she is content with the data presented (email from 20<sup>th</sup> March 2024 from Claire Wilson).

## 3 Scope of evidence

- 3.1.1 During the pre-application consultation period, Barnsley Metropolitan Borough Council's Planning Ecologist, Claire Wilson, commented on the application in relation to ecological constraints associated with the site. These comments are summarised below:
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- The site is located within a Site of Special Scientific Interest (SSSI) Impact Risk Zone. If the proposed development comprises more than 100 dwellings consultation with Natural England may be required.
- The closest Local Wildlife Site (LWS), a non-statutory protected site within proximity of the site is Wombwell Wood LWS, located approximately 0.16km west of the site.
- A Preliminary Ecological Appraisal (PEA) should be undertaken to consider the habitats on and adjacent to site, and their potential to support protected and priority species.
- If following the PEA, additional specialist surveys are required and it is anticipated that the proposals could result in an impact upon ecological features of value, an Ecological Impact Assessment (EcIA) should support the planning application. The EcIA should follow the CIEEM guidelines (2018).
- Deciduous woodland a Habitat of Principal Importance is located directly north of the site. Development plans should ensure this habitat is not negatively impacted by the development.
- Consideration of the sites potential to support breeding birds, including ground nesting species should be fully assessed.
- Ponds are located within 0.5 km of the site, these should be considered within the ecological assessment.
- A Preliminary Roost Assessment (PRA) of all trees/buildings to be impacted should be undertaken to assess their potential to support roosting bats. If any trees/buildings are deemed to have potential to support roosting bats, or a bat roost is located during the PRA, then a suite of bat activity surveys should be completed to fully assess use of the trees/buildings by bats, to inform a mitigation strategy and any potential Natural England licencing requirements. The survey(s) should follow the most recent BCT guidelines. Bat activity surveys cannot be conditioned as part of a planning permission, as the LPA has a 'biodiversity duty' (S40 of the Natural Environment & Rural Communities Act 2006) and it must 'have regards to biodiversity' when making all its decisions.
- The application should be supported by a Biodiversity Net Gain (BNG) assessment as the site is over 0.5 ha. The BNG assessment should include a copy of the metric, an associated report and habitat condition assessments. The most recent version of the Defra metric should be used. The LPA's policy at present for this part of the borough is for 'no net loss' of biodiversity; however, the mandatory standard of 'minimum 10% Biodiversity Net Gain' will be adopted in January 2024<sup>1</sup> and the applicant should ensure that their application complies to the standard that is in force at that time.
- As the proposal site is located within the Dearne Valley Green Heart Nature Improvement Area this should be taken into account when assigning strategic significance within the BNG calculations undertaken.
- The mitigation hierarchy should be applied on site, avoiding or minimising

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<sup>1</sup> The relevant provision of the Environment Act did not come into effect until 10 February 2024 and, therefore, this application is exempt from the statutory requirement to provide a minimum Biodiversity Net Gain of 10% because the application was validated on 9 February 2024.

damage to any existing habitats of value. Any proposed landscaping would aim to enhance biodiversity and assist in achieving net gains in biodiversity.

- Proposals should provide opportunities for wildlife, through native landscaping, integral bat/bird/insect boxes within the proposed buildings.
- External data should be gained from South Yorkshire Bat Group, South Yorkshire Badger Group and Barnsley Biological Records Centre (see: <https://www.barnsley.gov.uk/services/parks-and-open-spaces/wildlife-conservation-and-biodiversity/>).
- Biodiversity & Geodiversity Policy BIO1 and the Supplementary Planning Documents (SPDs) Biodiversity & Geodiversity and Trees & Hedgerows should be complied with.

3.1.2 The scope of my evidence will be to demonstrate how Baker Consultants considered and addressed these comments through the survey work, assessment and recommendations provided in support of the planning application.

3.1.3 Following submission of the planning application the Planning Ecologist requested further information relating to how the strategic significance of the baseline and post-development habitats was determined. The approach used was discussed and the Planning Ecologist subsequently confirmed that they were happy with the assigned strategic significance for each habitat type.

3.1.4 The Planning Ecologist also commented on the location of the proposed traditional orchard within the landscape scheme: "I am content with the proposed habitats within the landscape masterplan and feel that they are appropriate and achievable. My only comment would be that the traditional orchard should be located in the north western corner of the site away from Hemingfield road and closer to the woodland on the sites northern boundary". This comment was addressed by the appellant who confirmed that the landscape masterplan was submitted for illustrative purposes only, as the application is for an outline planning permission, with the landscape design being a reserved matter. This design aspect of the scheme is capable of being accommodated in the scheme and can therefore be dealt with at the Reserved Matters stage. The Planning Ecologist agreed that this is the correct approach given the outline nature of the application.

3.1.5

## 4 Evidence of Ecological Considerations

### *SSSI Impact Risk Zone*

4.1.1 Natural England's online MAGIC tool identified that Dearne Valley Wetlands SSSI is within 2km of the site. The site falls within the Impact Risk Zone (IRZ) of the SSSI and therefore, Natural England was consulted by the local planning authority (LPA) because the proposed development exceeds 100 residential units.

4.1.2 The site is geographically separated from the Dearne Valley Wetlands SSSI by existing development within the town of Wombwell. Given the distance from the Site (1.6km) and the lack of connectivity due to the presence of existing

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development and road infrastructure, my assessment is that there is no potential for direct or indirect impacts to the SSSI.

### *Wombwell Wood LWS*

- 4.1.3 The closest non-statutory site to the development site is Wombwell Wood which is designated as a Local Wildlife Site and contains ancient woodland. The proposed development has in theory the potential to cause direct and indirect impacts on the LWS given that it is located just 100m to the east. These potential impacts have been assessed and are described below.
- 4.1.4 Wombwell Wood is managed by Forestry England. It features parking facilities and a network of footpaths and is therefore well used by the public. The potential for impacts upon the LWS (e.g. increased disturbance of wildlife from increased footfall) has been considered, however, given the current access arrangements to the wood any additional footfall is likely to have little additional impact. Rubbish and dog bins would be located within the development site public open spaces to reduce the risk of littering within the LWS.

### *Preliminary Ecological Appraisal*

- 4.1.5 As part of the PEA a Habitat Survey was carried out by suitably qualified ecologists employed by Baker Consultants on 11<sup>th</sup> July 2023. The vegetation types and habitats present were described and mapped during a walkover of the site, using the standard published guidelines for the UK Habitat Classification System (V2)<sup>2</sup>. Features of particular interest were recorded as Target Notes (TNs).
- 4.1.6 In addition, the habitats within the site and surrounding land were appraised for their suitability to support protected or notable species, or assemblages that could be sensitive to the development proposals, in accordance with 'Guidelines for Preliminary Ecological Appraisal' <sup>3</sup>.
- 4.1.7 During the survey, consideration was given to features such as potential breeding bird habitat, bat roosting locations, badger sett locations, reptile habitat, and the suitability of water features for amphibians and riparian mammals. Invasive species would be noted by the surveyor if present.
- 4.1.8 The survey approach taken is designed to identify broad habitat types at a site and the potential of these habitats to support notable and protected species, and to assist in providing an overview of the ecological interest at a site.
- 4.1.9 None of the habitats present on site were considered to be of high ecological value and as such any loss from the development could be easily mitigated and compensated for through the creation of new habitats within the development as part of the delivery of BNG. The BNG measures will be secured through the imposition of an appropriate planning condition.

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<sup>2</sup> UKHab Ltd (2023). UK Habitat Classification Version 2.0 (at <https://www.ukhab.org>)

<sup>3</sup> CIEEM (2017). Guidelines for Preliminary Ecological Appraisal. Chartered Institute of Ecology and Environmental Management, Winchester.

## 5 Potential Ecological Impacts

- 5.1.1 Following the PEA additional specialist surveys were undertaken to assess whether the proposals could result in an impact upon ecological features of value. The following further survey work was undertaken: bat emergence surveys of existing farm buildings; bat static detector deployments; bird static detector deployments; breeding bird surveys; eDNA survey for great crested newts; and, a hedgerow survey.
- 5.1.2 The results of these surveys are detailed within the Baker Consultants' Ecological Appraisal Report and the Baker Consultants' Additional Ecological Surveys Report. The reports provide an assessment of the potential impacts on the ecological features identified within and adjacent to the site.
- 5.1.3 The key features assessed are summarised below.

### *Deciduous Woodland Located Directly North of the Site*

- 5.1.4 Deciduous woodland is present adjacent to the northern boundary of the site. Development can affect mature woodland and trees, and the wildlife they support, located on the site and nearby. The woodland habitat is, however, located outside of the site boundary and also enclosed by fencing, so potential impacts (in the absence of mitigation) would be limited to pollution, damage to roots during construction and potential increases in lighting during operation.
- 5.1.5 Potential impacts to the woodland will be addressed through appropriate mitigation. The mitigation measures will be detailed within a Construction and Environmental Management Plan (CEMP) and a Landscape and Ecology Management Plan (LEMP), and will include:
- A 10m buffer zone along the northern boundary to protect the offsite deciduous woodland ;
  - Standard pollution prevention measures;
  - Screening barriers to protect the retained habitats from dust and pollution during construction;
  - Noise reduction measures;
  - Implementation of root protection zones; and,
  - Sensitive lighting scheme to reduce light spill towards the woodland.
- 5.1.6 These measures will ensure that this habitat is not negatively impacted by the development.

### *Breeding Birds*

- 5.1.7 The sites potential to support breeding birds was assessed based on the results of automated static detector monitoring and breeding bird surveys.
- 5.1.8 Based on the results of the breeding bird surveys the site is considered to be of 'Site' importance to breeding birds which is the lowest level that can be assigned.
- 5.1.9 Of the notable bird species recorded during the breeding bird surveys only
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dunnock, linnet and skylark are 'probable' breeders on site. These species were recorded in low numbers on all survey visits, with just one pair of skylark and dunnock noted and two pairs of linnet. Skylark will be displaced as a result of the proposed development. However, suitable breeding habitat is present within the surrounding area and given the low numbers of individuals recorded, impacts above 'Site' level on this species are not anticipated.

- 5.1.10 The use of the site by birds is typical of lowland farmland in England. The majority of birds were observed within the boundary hedgerows. These habitats support breeding birds, but also serve as important connective habitat linking to the wider landscape. While minor hedgerow loss is unavoidable as part of the proposed development, newly planted hedgerows will be provided to mitigate the loss of nesting habitat. Hedgerow enhancement measures are proposed which will improve the quality of nesting habitat.
- 5.1.11 Swallows were confirmed to be breeding within the existing farm buildings. The demolition of these buildings and any other vegetation removal or construction works will be done outside the bird breeding season to avoid any impacts.
- 5.1.12 Overall, the species using the site and the adjacent areas are considered unlikely to be significantly affected by the development. Existing boundary features will be largely retained and many species will actively benefit from the newly created hedgerows and the enhancement of the existing boundary habitats.
- 5.1.13 Mitigation measures to avoid and reduce potential impacts on breeding birds are included within the Baker Consultants' Ecological Appraisal Report and the Baker Consultants Additional Ecological Surveys Report. These measures include avoiding site clearance during the bird breeding season and providing new nesting opportunities in the form of new habitat and nest boxes.

### *Bats*

- 5.1.14 A Preliminary Roost Assessment (PRA) identified that the existing farm buildings within the site had low – moderate bat roost potential.
- 5.1.15 To record potential bat roost activity two nocturnal emergence surveys were conducted in accordance with published survey guidance. The surveys confirmed that there are no bat roosts present within the existing farm buildings on site.
- 5.1.16 Static acoustic detectors were deployed to record bat activity around the site during two deployment periods in 2023 with a further deployment in 2024. Results of the static detector monitoring confirmed that bat activity is consistently low throughout the site. The site is considered to be of 'Local' value for bats and it is used regularly by a low number of common and widespread species.
- 5.1.17 Impacts on bat activity would be limited to increases in lighting within the northern section of the development site which could have an adverse impact on the function of the habitats used by bats if appropriate mitigation were not put in place. A dark corridor for movement along the woodland edge habitat should be maintained, in particular along the woodland located on the northern boundary of the site, to

preserve a commuting route for bats.

- 5.1.18 A sensitive lighting scheme will be incorporated into the design following guidelines set out in BCT's artificial lighting guidance<sup>4</sup> proposals allow for enhancement of hedgerows and provisions of seven newly planted species-rich native hedgerows, which will significantly enhance the site for bats overall. These measures will be secured through an appropriate condition.
- 5.1.19 All bat surveys were done in accordance with BCT's guidance current at the time of the surveys.

### *Biodiversity Net Gain Assessment*

- 5.1.20 The biodiversity net gain assessment results in an on-site net gain of 2.31 habitat units (14.85%) and a gain of 7.11 hedgerow units (122.08%). The results of the biodiversity net gain assessment exceed the minimum statutory biodiversity net gain of 10%, however, given that The Environment Act did not come into effect until 10 February 2024, this application is exempt from the mandatory standard as the application was validated on 9 February 2024.
- 5.1.21 The post-development calculations are based on the landscape masterplan, which includes retention, enhancement and creation of hedgerows, enhancement and creation of grassland and creation of a community orchard, Sustainable Urban Drainage Systems (SUDs) area, mixed scrub, and urban tree planting. The gain in biodiversity units will be achieved through prescriptions set out in a Habitat Management and Monitoring Plan (HMMP) to ensure the proposed habitat types and conditions will be achieved.
- 5.1.22 The location of the site within the Dearne Valley Green Heart Nature Improvement Area was taken into account when assigning strategic significance within the BNG calculations in line with the comments made by the LPA ecologist.
- 5.1.23 High strategic significance was assigned to habitats such as other neutral grassland, bramble scrub, mixed scrub, traditional orchard, urban trees, and all hedgerow types as these habitats are listed as Local Priority Habitats in the Barnsley Biodiversity Action Plan which underpins the vision for the Dearne Valley Green Heart Improvement Area strategy.
- 5.1.24 Low strategic significance was assigned to cereal crops, vegetated garden, modified grassland and developed land sealed surface as these habitat types are of low ecological value and occur commonly throughout the local area.

### *Mitigation Hierarchy*

- 5.1.25 The biodiversity net gain assessment process has applied the principles of the mitigation hierarchy – avoid, reduce, compensate, and enhance.
- 5.1.26 The hedgerows on site are considered to be ecologically valuable and provide

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<sup>4</sup> Institute of Lighting Professionals, ILP and Bat conservation Trust, BCT (2023). Bats and Artificial Lighting at Night.

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habitats for nesting birds, and foraging and commuting habitat for bats. Based on recommendations from the results of the habitat survey the scheme has been designed to largely avoid hedgerow loss. Where avoidance is not possible due to access requirements, the hedgerow loss would be reduced as far as possible and compensation and enhancement measures would be implemented which will result in an overall net gain in hedgerow provision.

### *Provision of Opportunities for Wildlife*

5.1.27 As well as provision of native planting within the scheme, the following measures are recommended to provide opportunities for wildlife:

- To replace the loss of nesting habitat for swallow within the farm buildings which are to be demolished, species-specific external nest boxes and / or integrated swallow bricks will be provided within a proportion of newly built housing.
- Enhancement of the site for hedgehogs should be considered through provision of hedgehog highways to ensure connectivity between gardens. Nest boxes should be supplied to provide cover and winter hibernation opportunities.

### *External Data*

5.1.28 As part of the PEA a data search was undertaken for designated sites of nature conservation interest, priority habitats and records of protected and priority species. The data search utilised Multi-Agency Geographic Information for the Countryside (MAGIC) to search for statutory designated sites, Habitats of Principal Importance and Ancient Woodland within 2k of the Site. Records of non-statutory designated sites of nature conservation and records of protected / notable species were sought from Barnsley Biological Records Centre.

### *Policy Requirements*

5.1.29 The information detailed within the Baker Consultants' Ecological Appraisal Report and the Baker Consultants' Additional Ecological Surveys Report demonstrates how the planning application complies with Policy BIO1 Biodiversity & Geodiversity and the SPDs Biodiversity & Geodiversity and Trees & Hedgerows.

### *Comprehensive Development*

5.1.30 The proposal in question forms part of the a larger parcel of safeguarded land located to the east of the development site. There are no ecological receptors nor impact pathways upon those receptors that could affect the ability to develop the wider safeguarded site. All ecological mitigation and compensation in the form of BNG delivery is located within the red line boundary. There is therefore no adverse effect on the delivery of comprehensive development across the full extent of safeguarded land.

## 6 Third Party Comments

6.1.1 A number of comments from third parties have been received following the submission of the planning application which mention impacts on wildlife.

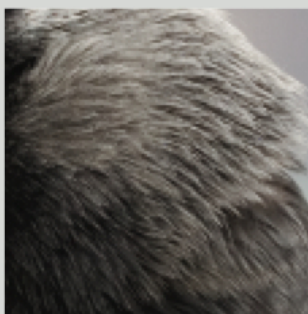
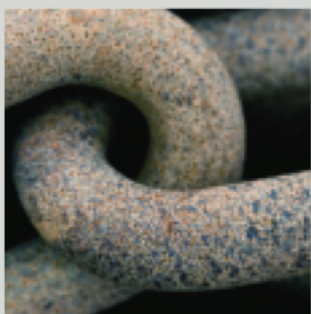
- 6.1.2 One comment mentions impacts on roosting bats in the farm buildings however the surveys established that no bats were present in the buildings.
- 6.1.3 Other comments mention general loss of wildlife including mammals, open fields and hedgerows. As discussed above the ecological surveys did not record any ecological receptor that are of high value and the BNG calculations demonstrate that any losses of habitat are fully compensated for.
- 6.1.4 One comment highlighted the need for ecological surveys to be carried out which as discussed above were completed to the satisfaction of the LPA ecologist.

Another correspondent stated 'It would be unfair to provide biodiversity net gain requirements off site. Natural England's principles for the Biodiversity Net Gain Metric state that biodiversity net gain should be provided on-site, where possible. On this site, there are no exceptional circumstances and it is possible to provide a net gain, only at the expense of house building. I do not expect to see anything less than a 10% net gain on site for all habitat units. Any reliance on off-site provision would equate to stealing from the local flora and fauna.' As set out above the proposal achieves in excess of the statutory requirements for BNG **within** the proposed development and does not rely on off-site gains.

## 7 Conclusions

- 7.1.1 The proposed development application has been supported by a full suite of ecological surveys which are both comprehensive and up to date and were carried out to the satisfaction of the LPA ecologist.
  - 7.1.2 The site was found to support low intrinsic ecological value and any effect can be fully mitigated and compensated for. The creation of new habitat within the site significantly exceeds the statutory level of BNG (10%) for both habitats and hedgerows, which will be secured through an appropriate condition. This is a clear benefit of the proposals which do not have to meet this statutory requirement because the application was validated prior to the requirement coming into effect.
  - 7.1.3 The issues raised by the Council's Planning Ecologist and third parties have been considered throughout the ecological assessment process and satisfactorily addressed.
  - 7.1.4 The development of the site will not give rise to any impacts that could possibly affect the comprehensive development of the wider area of safeguarded land located to the east.
  - 7.1.5 It is my view based on the evidence and taking into account the mitigation and compensation measures that there are no ecological constraints to the development and the range of net gains will be secured for biodiversity.
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