IM Land

The Valley, Radford Semele

ECOLOGICAL STATEMENT

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1.0 INTRODUCTION

1.1 FPCR were originally appointed in March 2017 to complete an ecological assessment of land at the Valley, Radford Semele, Warwickshire, to provide recommendations to minimise the potential adverse effects upon habitats and species present within the Site or the wider local environment. Subsequent species and habitat specific survey work was completed within the appropriate survey periods in 2017 and 2020 and Biodiversity Impact Assessment calculations were undertaken using the Warwickshire metric.

1.2 FPCR have subsequently been instructed to provide the following Ecological Statement to support Representations to the Neighbourhood Plan.

1.3 For designation as a Local Green Space under NPPF 100b, an area must be "*demonstrably special to a local community and holds a particular local significance, for example because of…its richness of its wildlife*".

1.4 The Neighbourhood Plan Appendix 1, Table A1a (pages 69-70) contains two short references to wildlife and ecology matters, as justification for why the Site is "Demonstrably special to a local community" and "Local in character and not an extensive tract of land":

The Table states: *"Outline planning applications (W/16(W/16/1489 & W/17/0514) have identified that this area contains protected species, having a population of Great Crested Newts located in the pond in the NW corner and Grass Snakes in the main field. Bats also forage in and around the area. It has mature hedges and trees add to the beauty of the area and the view. It has been allowed to develop into ruderal grassland, of which there is a scarcity in Warwickshire, so is of importance ecologically.*

The field and pond are fenced off so are protected from public access. This is important to maintain the balance of protected species habitat. On 3 sides it has thick hedges with mature trees, with ruderal grassland in the main area of the field. It is linked to Angley Hole and wood by hedges and ditches so providing a wildlife corridor from east to west of the village leading to Whitnash Local Nature Reserve."

1.5 From this text, it appears that the Parish Council and authors of the neighbourhood plan are relying on the Officer's Report and the objection by Warwickshire County Council. They raised three main issues:

- The potential negative effect to a small population of GCN;
- The potential negative effects to a small potentially breeding population of grass snake.
- Loss of species poor semi-improved grassland;

1.6 The following ecological statement presents the ecological baseline in the context of the above three issues.

1.7 Neither the Officer's Report nor the County Council raised objections in respect of bats. However, this Report also addresses the specific reference to bats foraging in and around the area.

1.8 The statement also considers the development proposals against the requirements of current national, regional and local planning policies and summarises the benefits to biodiversity that can be achieved through development of the Site.

1.9 Overall, this Report assesses whether the site can be said to have "particular local significance", having regard both to the wildlife and ecological features identified on site and the existing legislation that protects these.

2.0 RELEVANT PLANNING POLICY, LEGISLATION & SURVEY GUIDANCE

Legislation

Conservation of Habitat & Species Regulations 2017 (*as amended*)

2.1 Species afforded protection under the Conservation of Habitat & Species Regulation 2017 (*as amended*) (refer to as 'the Regulations') and relevant to this statement are GCN. All European Protected Species, their resting areas and breeding sites are also afforded full protection under both the Wildlife & Countryside Act (W&CA) 1981 (*as amended*) and the Regulations. However, when European Protected Species their resting places or breeding sites of these species are affected by proposals or works, the legislative mechanism by which the necessary licenses are granted is the Regulations.

2.2 As this legislation has a bearing on the evidence provided in this Statement, the legal protection afforded to bats by the Regulations is summarised below and the legal protection afforded to these bats through the W&CA is not considered in any further detail.

2.3 Regulation 41 (Part 3: Paragraph 1) of the Regulations lists four actions which constitute offences:

A person who –

a) Deliberately captures, injuries or kills any wild animals of a European protected species,

b) Deliberately disturbs wild animals of any such species,

c) Deliberately takes or destroys the eggs of such an animal, or

d) ***Damages or destroys a breeding site or resting place of such an animal.***

2.4 Regulation 55 (2) of the Regulations lists seven actions for which the relevant licensing body may grant a license to provide a defence against the offences lists at 41(1). The purposes for which licences can be granted are:

a) Scientific or educational purposes;

b) Ringing or marking, or examining any ring or mark on, wild animals;

c) Conserving wild animals or wild plants or introducing them to particular areas;

d) Protecting any zoological or botanical collection;

e) Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;

f) Preventing the spread of disease; or

g) Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.

2.5 In order for the relevant licensing body to grant a licence under the Regulations, Paragraph 55 (9) requires that the licensing body are also satisfied that the requirements of two further tests are met. These are:

a) That there is no satisfactory alternative; and

b) That the action authorised will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status in their natural range.

The Wildlife & Countryside Act 1981 (WCA) (*as amended*)

2.6 Species afforded protection under this legislation and relevant to this statement include grass snakes and birds.

2.7 Common species of reptiles are afforded protection under Sections 9(1) and 9(5) of Schedule 5 of the WCA 1981 (as amended). This legislation protects these animals from:

- intentional killing and injury; and
- selling, offering for sale, possessing or transporting for the purpose of sale or publishing.

2.8 Part 1 of this Act also provided protection for all species of wild birds during the breeding season. Under the Act all birds, their nests and eggs are protected by law and it is an offence, with certain exceptions to recklessly or intentionally:

- Kill, injure or take any wild bird;
- Take, damage or destroy the nest of any wild bird while in use or being built; and
- Take or destroy the egg of any wild bird.

2.9 Several species of wild birds are also listed on Schedule 1 of the Act which provides protection for the species at all times.

Natural Environment and Rural Communities (NERC) Act 2006

2.10 Section 41 (S41) of the NERC Act 2006 provides a list of priority habitat types and priority species (these were formally known as Local Biodiversity Action Plan Habitats or Species). The habitat type or species listed in S41 of the NERC Act 2006 are not necessary protected species but Competent Authorities when determining planning applications should consider the presence of such habitats and species within the overall planning balance.

National Planning Policy, Planning Guidance and Local Planning Policy

National Planning Policy Framework (NPPF) (Updated February, 2019)

2.11 The National Planning Policy Framework was published originally published in March 2012 to provide guidance for planning authorities and other decision makers on achieving sustainable development. Paragraphs 170 – 183 are relevant to biodiversity and a summary of the relevant elements of these paragraphs is provided below.

2.12 Paragraph 170 indicates the planning system should contribute to and enhance the natural and local environment by:

- ***protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);***
- ***minimising impacts on and providing net gains in biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures.***

2.13 Paragraph 171 states that Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

2.14 Paragraph 117 suggests planning policies *should* seek to minimise impacts to biodiversity and geodiversity through:

- ***Planning for biodiversity at a landscape level across local authority boundaries,***
- ***Identify and map components of the local ecological networks including the hierarchy of international, national and locally designated site of importance for biodiversity, wildlife corridor and stepping stones that connect them.***
- ***Promote the preservation, restoration and re-creation of priority habitat, ecological network and the protection and recovery of priority species.***

2.15 When determining planning applications Paragraph 175 recommends that local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- ***If significant harm 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,***
- ***development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest,***
- ***development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons 58 and a suitable compensation strategy exists; and,***
- ***development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.***
- ***Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitat, including ancient woodland and the loss of aged or veteran trees.***

2.16 Paragraph 176 states that the following should be given the same protection as habitats sites:

- ***Potential Special Protection Areas and possible Special Areas of Conservation;***

- ***Listed or protected RAMSAR sites; and***
- ***Sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.***

2.17 Paragraph 177 states: ***the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site***.

Government Circular: Biodiversity & Geological Conservation – Statutory Obligations & their impact within the planning system (ODPM Circular 06/2005)

2.18 Paragraph 98 of the ODPM Circular is relevant to this ecological statement. This paragraph confirms that the presence of a protected species is a material consideration to the LPA when determining a planning application if the proposals were likely to result in harm to the species or it habitat. The guidance also recommends attaching appropriate planning conditions or entering into planning obligation to ensure the long-term protection of the species.

Warwick District Local Plan 2011 – 2029 (Adopted September 2017)

Policy DS5 Presumption in Favour of Sustainable Development

2.19 This policy states:

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions that mean proposals can be approved wherever possible, and to secure development that improved the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and where relevant with policies in neighbourhood plans) will be approved without delay.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

i) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or

ii) Specific policies in that Framework indicate that development should be restricted.

Policy NE2: Protecting Designated Biodiversity and Geodiversity Assets

2.20 This policy states:

The Council will protect designated areas and species of national and local importance for biodiversity and geodiversity as set out below.

Sites of National Importance

Sites of Special Scientific Interest (SSSI) are of national importance; therefore, development will not be permitted which destroy or adversely affect these unless, in exceptional circumstances, it can be demonstrated that the benefits of development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity.

Where development is permitted that has an adverse impact on an SSSI, whether direct or indirect, measures to enhance the condition of the site will be required.

Sites of Local Importance

Development will not be permitted that will destroy or adversely affect the following locally important sites and assets unless it can be demonstrated that the benefits of development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity;

a) Ancient Woodland, aged and veteran trees;

b) Local Nature Reserves;

c) Local Wildlife Sites and potential Local Wildlife Sites;

d) Local Geological Sites;

e) Protected, rare, endangered or priority species or other sites of geological or geomorphological importance.

All proposals likely to impact on the above assets will be subject to an ecological assessment. The ecological assessment should include due consideration of the importance of the natural asset, the nature of the measures proposed (including plans for long-term management) and the extent to which they avoid and reduce the impact of development. Development affecting these sites will only be permitted where:

i) The proposal is justified against the above criteria; and

ii) Where it can be demonstrated that the proposed mitigation or compensatory measures are equivalent to the value assigned to the site / asset in the ecological assessment.

Policy NE3 Biodiversity.

2.21 This policy requires:

New development will be permitted provided that it protects, enhances and / or restores habitat biodiversity. Development proposals will be expected to ensure that they:

a) lead to no net loss of biodiversity, and where possible a net gain, where appropriate, by means of an approved ecological assessment of existing site features and development impacts;

b) protect or enhance biodiversity assets and secure their long term management and maintenance, and;

c) avoid negative impacts on existing biodiversity.

Where this is not possible, mitigation measures must be identified. If mitigation measures are not possible on site, then compensatory measures involving biodiversity offsetting will be required.

Policy NE5 Protection of Natural Resources

2.22 This policy states:

Development will be permitted provided that they ensure that the district's natural resources remain safe, protected and prudently used. Development proposals will be expected to demonstrate that they:

a) do not give rise to soil contamination or air, noise, radiation, light or water pollution where the level of discharge, emissions or contamination could cause harm to sensitive receptors;

b) ensure that, where evidence of contamination exists, the land is made fit for its intended purpose and does not pose an unacceptable risk to sensitive receptors;

c) do not result in a reduction in the quality or quantity of groundwater resources; this includes the protection of principal aquifers and the source protection zones associated with public supply boreholes within the northern part of the district; there will be a presumption against development within a groundwater SPZ1 that would physically disturb an aquifer;

d) avoid the best and most versatile agricultural land unless the benefits of the proposal outweigh the need to protect the land for agricultural purposes;

e) do not sterilise mineral resources identified as of particular importance unless it can be demonstrated that it would not be practicable and environmentally feasible to extract the identified mineral resource prior to development taking place;

f) where appropriate, identify how proposals will contribute to the EU Water Framework Directive and the Severn River Basin Management Plan, which requires the restoration and enhancements of water bodies to prevent deterioration and promote recovery of waterbodies.

Guidance on protected species

Natural England's Guidance on GCN Mitigation

2.23 When selecting receptor sites Natural England's advice is:

- be as close to the donor site as possible;
- include (or be capable of including) the same types and mix of habitats that will be lost;
- be at least the same size as the habitat due to be lost - if it's smaller it should have better quality habitats;
- be selected based on good land survey data from the site assessment and characteristics like connectivity and quality;
- not be in a site of special scientific interest (SSSI) unless there's no other suitable habitat nearby;
- have no or limited public access - if there's a strong case for public access, you'll need to address the interference this could cause;
- not be enclosed by permanent fencing (use enclosures to prevent newts accessing hazardous areas);

- allow for ongoing habitat management, maintenance and monitoring after the development.

2.24 Recommendations for habitats which should be included in the areas for great crested newts for hibernate and refuge. Such area can include:

- large piles of rubble;
- rocks;
- log piles; and
- earth banks with plenty of mammal burrows and ground fissures.

Natural England's Standing Advice – Great Crested Newts (GCN)

2.25 Natural England has produced standing advice to assist Local Planning Authorities, other Competent Authorities and consultants advising developers on the requirements for survey work, mitigation and other legal considerations. This standing advice has been produced to avoid Natural England commenting on general protected species issues during determination of a planning application.

2.26 The level of survey work completed to confirm the presence / absence and the population size was not raised as an issue during determination of this planning application. Therefore, sections in NE guidance relating to survey work are not considered further.

2.27 NE standing advice does recommend that where impacts cannot be avoided, mitigation should be provided on a like for like basis to ensure on net loss. Where the provision of 'like for like' mitigation cannot be achieved, which is the case for the majority of planning applications affecting GCN, the guidance recommends:

'In fact, where significant impacts are predicted there will be an expectation that compensation will provide an enhanced habitat (in terms of quality or area) compared with that to be lost. Compensation should also remedy any loss of connectivity brought about through the development.'

2.28 When considering the level of mitigation required NE standing advice recommends:

- ***If a minor impact is unavoidable, mitigation on-site, or in the immediate surrounding area, should be provided, entailing small scale relocation and exclusion of newts combined with suitable habitat creation.***
- ***If a major impact is unavoidable and mitigation cannot be carried out on site, newts should be translocated away from the site to a suitable receptor area. It is important that any new habitats are made suitable prior to translocation.***

2.29 Guidance in the remaining section of the guidance does recommend that receptor site should be of an equivalent size, this document does refer to the reader to the Great Crested Newt Mitigation Guidelines[1] which confirms '*smaller sites may be allowable if it can be clearly demonstrated that the receptor site will be of a higher habitat quality*'.

Natural England's Guidance on Reptile Mitigation

2.30 Where reptiles are potentially affected by development proposals and mitigation / translocation is required Natural England provides advice on compensation measures which can be used. This

[1] Great crested newt mitigation guidelines. English Nature 2001

guidance recommends that compensation should include; creating links to other habitat, creating new habitat and improving existing habitats[2].

2.31 Where translocation away from a site is required Natural England advise the receptor site should be:

- as close as possible to the development site, and within the same local planning authority if possible;
- that is at least the same size as the habitat that will be lost, and larger if the habitat to be lost is high quality (you can provide smaller habitat if it's substantially better quality);
- that will serve the same function as the habitat to be lost, e.g. it has hibernation features;
- with similar habitat to the area that will be lost, including water bodies;
- that doesn't currently support the same species, but can be improved to make it suitable;
- that will be safe from future development and managed in the long term.

2.32 Where small number of reptiles are present in the receptor site Natural England's guidance recommends that habitats should be improved to increase the number of animals that the site can support.

Natural England's Standing Advice – Reptiles

2.33 Natural England have also provided standing advice for to assist Local Planning Authorities, other Competent Authorities and consultant advising developers on the requirements for survey work, mitigation and other legal considerations. This document suggests recommended survey timings / techniques but as such matters are not in disagreement between the parties no further analysis of survey methods is provided.

2.34 Where mitigation is considered to be required, NE standing advice recommends:

- redesigning the scheme to avoid breeding sites or resting places be avoided thereby securing them and avoiding direct impacts; and
- accommodating reptiles within existing/newly created habitats on the application site (this is always preferable to off-site translocations).

2.35 In situations where translocation of the population has been identified as necessary NE standing advice recommends:

- creating better linkages to the wider environment, allowing movement of reptiles;
- the size of the receptor site should is the same as that affected but where the receptor site is smaller increase habitat quality should be provided and the receptor site should replicate the function of that which is to be lost

3.0 REVIEW OF ECOLOGICAL SURVEY, POTENTIAL EFFECTS OF PROPOSED DEVELOPMENT AND ECOLOGICAL BENEFITS

Overview

3.1 The Site has been subject to extensive ecological survey work associated with two historic planning applications (and more recently to provide updates). The results of ecological survey work and

[2] https://www.gov.uk/guidance/reptiles-protection-surveys-and-licences

appropriate mitigation strategies are detailed within four key documents, all of which have been appended to this ecological statement. Specifically, these include:

- Radford Semele. Ecological Appraisal. LDA Design (August, 2016);
- Radford Semele. Reptile Mitigation Strategy. BSG Ecology (September, 2016);
- Radford Semele. Ecology Report. FPCR (March, 2017); and
- Radford Semele. GCN Survey Report. FPCR (June, 2017).

3.2 A copy of the Ecology Report produced by FPCR as a supporting document to the most recent application for up to 20 residential dwellings is attached to this ecological statement. The appendices of this report contain the ecological reports listed above.

3.3 To support this ecological statement and the Representations to the Neighbourhood Plan, the grassland forming the main habitat on Site has been subject to detailed and robust assessment of its characterisation and value. Assessments were undertaken in 2017 and repeated in August 2020. Specifically, quadrat sampling techniques were employed and the quality of the grassland was assessed against the qualifying criteria for the following:

- Habitats of Principal Importance as listed in S41 of the NERC Act 2006;
- Habitat listed in the Warwickshire, Coventry and Solihull LBAP; and
- Local Wildlife Site selection guidance.

Site specific assessment

3.4 The site is not designated as a statutory or non-statutory site of biodiversity or nature conservation importance.

3.5 The dominant habitat within the Site is species-poor improved grassland. Other habitats present included scattered native scrub on the southern boundary. Hedgerows present on the southern / eastern boundary and dry field drainage ditches present on the northern / eastern boundaries. To avoid any unnecessary repetition, the detailed herein focusses on the key ecological issues raised in the context of historic planning applications on the Site as listed at Paragraph 1.4-1.7, namely, grassland, GCN and grass snake. As bats, or specifically bat foraging, is included at paragraphs 69-70 of the Neighbourhood Plan, further comment on the use of the Site by bats is aslo included below.

Grassland.

3.6 Detailed assessments of the grassland forming the main body of the Site by FPCR in 2017 and subsequently repeated in August 2020 confirmed that the grassland is species-poor improved grassland. This type of grassland is of little or no conservation value and is of a lower ecological value than species-poor semi-improved grassland, which previous assessment had classified it as. This assessment also confirms the grassland does not meet the criteria for selected as:

- a Habitat of Principal Importance (HPI) as listed in S41 of the NERC Act 2006;
- lowland Neutral Grassland Priority Habitat within the Warwickshire, Coventry and Solihull Local Biodiversity Action Plan Lowland Meadow; or
- a Local Wildlife Site (LWS).

3.7 This habitat type is common / widespread locally and nationally and furthermore, easily replicable. Such habitat does not warrant statutory or non-statutory protection from a botanical perspective. The grassland is not afforded any level of protection and the management of the grassland is not secure. Species – poor improved grassland habitats such as this do not provide a significant beneficial resource to local wildlife, lacking the species richness and heterogeneity to support a diverse range of invertebrates characteristic of grassland habitat of greater significance to local wildlife. Given these factors and the assessment provided above, the grassland is considered of no more than local level ecological importance and as such is not a material consideration in the planning process.

3.8 At a site level and in the absence of any mitigation, the potential effects from the loss of the grassland are long-term minor adverse to a valued ecological resource of only site level value. Detailed assessments of the grassland completed by FPCR in 2017 and repeated in 2020 confirm that the grassland is species-poor improved grassland, common and widespread both locally and nationally, and in a botanical context of no conservation importance. These detailed surveys also confirm that the grassland does not qualify as a Habitat of Principal Importance, and LBAP priority habitat or a Local Wildlife Site.

3.9 Whilst there will be a reduction in quantity of the species-poor improved grassland habitat on Site, the remaining area to be retained under development proposals would be enhanced and managed in accordance with a Landscape and Ecological Management Plan that would seek to achieve grassland of an overall greater biodiversity value and long-term security of such habitat. Such a management plan would seek to prevent any further encroachment of native scrub and promote the establishment of both tussock and species rich forms.

3.10 In addition to the mitigation measures briefly outlined above, other enhancements proposed across the Site would include the gapping up of existing hedgerows on the eastern / southern boundaries, the planting of c.166m of native species rich hedgerow, the reprofiling of an existing drainage ditch along the northern boundary of the Site, the creation of wetland habitat associated with any surface water drainage infrastructure and the use of flowering amenity lawn mix in formal areas of public open space.

3.11 Taking into consideration the confirmation through detailed survey in 2017 and August 2020 that the main body of grassland on Site is species-poor improved grassland, the Biodiversity Impact Assessment score of +1.48 (and +2.09 BIA score for linear features) indicates that proposals would be capable of providing a net gain in biodiversity.

Great crested newts

3.12 The core terrestrial habitat area for GCN is defined as land within 0 – 50m of a breeding pond[3]. The proposals for development of the site do not affect land within this core area and enhancements to the pond are proposed. Therefore, the potential effects to the small population of GCN within the core habitat area are likely to be minor positive effects.

3.13 Development of the site would result in the loss of approximately 0.72ha of grassland. The habitat is intermediate habitat situated within the 50 – 250m surrounding the pond. In the absence of mitigation, loss of these habitats is only likely to result in medium adverse effect to the small population.

[3] Great Crested Newt Mitigation Guidelines. English Nature, 2001.

3.14 Suitable terrestrial habitats are present to the south and west of the Site. These habitats include: woodland, hedgerow, grassland and scrub. As well as retaining a significant area of the existing habitats to the east of the site, the proposals have retained significant commuting routes of varying width from 7.5m to 25m along the northern / southern aspects of the site. The retention of these habitats would ensure the population is not isolated from suitable terrestrial habitats in the wider environment or the additional ponds to the south west of the site.

3.15 Prior to commencement of development, any land on Site affected would be subject to clearance following the methods agreed with Natural England through the granting of a Natural England development license. Such clearance exercises would involve a trapping and translocation exercise completed over at least 30 suitable trapping occasions. The trapping and translocation exercise would be completed employing standard methods using bucket traps and temporary amphibian fencing.

3.16 The mitigation package for the confirmed population of GCN would seek to increase the overall diversity of habitats within the Site and improve connectivity to other terrestrial habitats surrounding. The following outlines the mitigation measures which would be provided.

3.17 Improving the quality of the grassland would result in benefits to the small population of GCN through improving the overall foraging resource for the population. Additional resting places would be created through: the implementation of four hibernacula on the northern / southern Site boundaries and the implementation of new hedgerows on the edge of the proposed development area. The additional hedgerows within the Site would provide additional commuting routes to terrestrial habitats outside the Site and the enhancement to the northern drainage ditch would improve connectivity and the foraging resource for the local population. On establishment of the surface water drainage infrastructure, the wetland habitat provided would increase the overall foraging resource (*Figure 1*).

3.18 Further enhancements for both breeding and commuting would be provided through the implementation of an additional ‘stepping stone’ pond along the southern commuting route (*Figure 1*).

3.19 The measures outlined above would provide greater habitat diversity, improving the overall quality of terrestrial habitats within the Site for GCN and additional resting places for the small population of GCN identified. Increased resting places would also reduce the potential for increased predation by grass snakes. The likely potential effect following the implementation of these measures, upon the local population of GCN have been assessed as being long term minor beneficial.

Reptiles (Grass snake)

3.20 The Site does not provide suitable breeding opportunities for the local grass snake population. Consequently, development of the Site would not affect the breeding status of the population.

3.21 Habitats within the Site were generally homogenous, lacking the habitat mosaic which provides optimal foraging areas and basking sites for grass snake. The field body is managed as a single entity as improved grassland with no ‘rank’ areas or areas of a more tussocky structure that would prove more optimal for the species; therefore, the Site is of only limited suitability for the local grass snake population. Adjacent to the Site boundaries, an increased mosaic of habitats provides increased suitability for the local grass snake population These habitats include: tall ruderal

vegetation, areas of native scrub and hedgerow. Furthermore, the boundary habitats are where historically, the majority of individual grass snakes were recorded.

3.22 Most boundary habitats are retained under historic planning proposals. Consequently, the primary effects to the local population from habitat loss would occur through the loss of the open, improved grassland habitat. This grassland habitat only provided a limited resource to the population and potential effects from the loss of this habitat have been identified as long-term minor negative effects. However, such minor negative effects are unlikely to be significant at the population level given the range of the grass snake and unaffected habitat in the wider environment.

3.23 Prior to the commencement of any proposed development a trapping and translocation exercise would be completed. This exercise would be completed over the active period of April – September and the methods for translocation agreed in writing with the LPA. Translocation of common species of reptile does not require a licence so methods of clearance can be the subject of a planning condition.

3.24 The increased diversity of habitats that would be provided in order to mitigate, compensate and provide enhancements for GCN would also provide habitat enhancements for the local population of grass snake (*Figure 1*). To avoid unnecessary repetition these habitats are:

- Increased grassland diversity;
- New species rich hedgerows;
- Improving habitat quality of and along the northern boundary drainage ditch;
- The creation of wetland habitat in associated with surface water drainage solutions; and
- The provision of additional hibernacula within green infrastructure.

3.25 In addition to the mitigation proposed, the introduction of garden habitats within the proposed development are likely to increase potential breeding sites for the local grass snake population.

3.26 These measures and the long-term management of these habitats would secure habitats for use by the local population of grass snake in the long-term. Therefore, long term minor beneficial effects to the local grass snake population are expected to result.

Bats

3.27 Habitats on the boundaries of the Site are used by common species of bats in low and unremarkable numbers. The two dominant species recorded over the course of surveys undertaken on the Site (FPCR, 2017) were common and soprano pipistrelle bat. Surveys within the wider local area (Wardell Armstrong, 2016 – associated with a neighbouring application *Land on the south side of Southam Road*) also recorded bat activity from common and soprano pipistrelle in addition to Myotis sp. Again, with most recorded activity being from the former two pipistrelle species.

3.28 More notable bat species, specifically, Annex II species, have exacting habitat requirements and a seasonal reliance on certain invertebrate prey that the habitats on Site and the management thereof are not currently conducive to providing. Habitats on Site are considered of no value in the context of supporting significant populations of these more notable species.

3.29 All species recorded using the Site are considered common and widespread both locally and nationally, recorded in low and unremarkable numbers, therefore the bat assemblage supported by habitats on the Site is considered of no more than local level value.

3.30 The key habitats for bat foraging and casual commuting present within the Site are the hedgerows and scrub on the Site boundaries, all of which would be retained in any development proposals and buffered from greenspace. Substantial areas of green infrastructure would have only limited public access and new indigenous hedgerow and structural native scrub planting would both increase foraging and commuting resources across the Site in the long-term for the local bat population and also serve to reduce the effect of light spill from new residences onto habitats used by bats.

4.0 LEGISLATIVE AND POLICY COMPLIANCE

The Conservation of Habitats & Species Regulations 2017 (*as amended*)

4.1 As outlined in Section 2, in situations where European Protected Species are affected by proposals the Conservation of Habitats & Species Regulations 2017 (*as amended*) provides three tests which should be satisfied before Natural England can grant a license.

4.2 Whilst Local Planning Authorities and other competent authorities do have a duty to consider these tests it is important to repeat the findings of the Supreme Court ruling of R(Morge) v Hampshire County Council [2011] UKSC2. This judgement concluded that when determining planning applications, the 'competent authority' should only have regard for the Regulations and the likelihood that the requirements of the three tests will be met and that it is for Natural England to determine whether the requirements of the Regulations are met.

4.3 The 'Favourable Conservation Status (FCS)' test as outlined at Paragraph 55 (9)(b) is the primary ecological test. When assessing the requirements of this test the competent authority must consider where the mitigation proposals outlined will ensure that the conservation status of the population will not be affected by the proposals. This should be judged against advice Natural England provides within the Great crested Newt Mitigation Guidelines, NE standing advice and NE on-line resources.

4.4 NE correspondence in relation to historic application on the Site confirms that the proposed mitigation for the small population only needs to conform to the requirements of their standing advice. Therefore, as the proposed mitigation measures outlined at Paragraphs 3.15 – 3.19 (an shown in *Figure 1*) have provided significant enhancements for the small population of GCN and enhancements which reduce potential predation from grass snake through the provision of increased resting places, it is logical to conclude the requirements of the FCS test will be met.

4.5 With regards use of the site for foraging and casual commuting by common bat species, both historic applications on the Site have illustrated there is sufficient scope to accommodate the retention of all existing linear habitat features present on the Site boundaries within any development thus ensuring that there would be no loss of functionality. Provision of a long-term management plan to maintain the foraging and casual commuting corridors as suitable for bats in the long-term would prevent any deterioration.

4.6 The above measures are considered sufficient to demonstrate legal compliance given the Site does not exist within a consultation zone for any SAC designated for bats and does not fall within a roost sustenance zone for a significant bat roost. Foraging areas and commuting routes for bats are not afforded strict protection by the Habitats and Species Regulations 2017 (as amended) (hereafter referred to as 'the Regulations') or the Wildlife and Countryside Act 1981 (as

amended). Commuting routes are only afforded strict protection under the Regulations when the removal of such routes could lead to the 'deterioration' of a roost site.

The Wildlife & Countryside Act 1981 (*as amended*)

4.7 Whilst GCN are afforded protection under the Wildlife & Countryside Act 1981 (*as amended*) the legislative mechanism by which licenses are granted is the Conservation of Habitats and Species Regulations 2010 (*as amended*). Paragraphs 4.1 – 4.5 above considered the implications of the Regulations to the proposals and to avoid unnecessary repetition, no further consideration of GCN will be given in this section.

4.8 Grass snakes are afforded protection under this Act from intentional killing or injury. The mitigation proposals include translocation of grass snake from land affected by the proposals to avoid killing or injury. Following clearance of the site and the implementation of appropriate working practices through construction of the development, killing or injury of grass snakes will be avoided and these measures will ensure compliance with the requirements of this legislation.

Natural Environment and Rural Communities Act (NERC) 2006

4.9 The NERC Act 2006 places a duty on Local Planning Authorities to consider the presence of priority habitats or species listed in S41. Great crested newt and grass snake are both listed as priority species in S41 of the NERC Act 2006. However, the species poor improved grassland does not qualify as a habitat of principle importance and as such further consideration of this habitat type in the context of this legislation is not required, other than to confirm the 'Biodiversity Impact Assessment' results in a net gain to biodiversity.

4.10 Mitigation provided for GCN follows Natural England's standard guidelines. Therefore, it can be concluded that the provision of the mitigation is adequate to maintain the favourable conservation status of this species and as such the proposals must meet the requirement to maintain the population as required by the NERC Act 2006.

4.11 The mitigation package for the small population of grass snake also follows Natural England guidelines as outline in Section 2 at Paragraphs 2.35 – 2.37. Through the provision of higher quality habitats and improvements to connectivity between the site and the wider environment which will be secured through the application of a long-term management plan, the favourable conservation status of the small population of grass snake will also be maintained. As the proposals will maintain the favourable conservation status of the population it has been concluded that the requirements of the NERC Act 2006 for grass snake will also be satisfied.

National Planning Policy Framework (Updated February, 2019)

4.12 The primary thrust of the NPPF is to promote sustainable development through maintaining ecological resources and where possible providing enhancements to biodiversity through development. The requirement to provide enhancements through development is a matter which has to be viewed in the overall balance and where developments are necessary, biodiversity enhancements should be provided and achieving 'measurable net gains' in biodiversity should be an objective.

4.13 To provide a quantitative analysis of biodiversity losses and gains, Warwickshire County Council has adopted the 'Biodiversity Impact Assessment'. This tool assesses the overall value of habitats

within a proposed development site and the value of the habitats following development with the application of proposed mitigation measures. The proposals, in this instance historic applications which are the subject of this ecological statement have used the 'Biodiversity Impact Assessment' tool and positive scores for both habitat and linear features were achieved demonstrating for the purpose of supporting these representations to the neighbourhood plan that demonstrable / measurable net gains in biodiversity are achievable through development of the Site. Therefore, the only logical conclusion which can be reached is that the proposals will provide a 'net gain' for biodiversity and the proposals are compliant with the requirements of the NPPF 2019.

4.14 The 'Biodiversity Impact Assessment' tool only considers the potential effects of a development on the habitats, not the species present within the site. The mitigation proposals for both GCN and grass snake are in line with Natural England guidance. The proposals have not only sought to improve the quality of the habitat for both species in the retained land but the proposals also ensure continued connectivity to other habitats in the wider environment. Therefore, it has been concluded that the proposals are in accordance with the requirements of the NPPF 2019.

4.15 All the enhanced habitat provision forming the green infrastructure will be managed in the long-term following prescriptions outlined in a management plan. The application of this management plan will secure suitability of the habitats in the long-term and aid the recovery of the protected species identified.

Government Circular: Biodiversity & Geological Conservation – Statutory Obligations & their impact within the planning system (ODPM Circular 06/2005)

4.16 Paragraph 98 of the ODPM Government Circular is clear that the presence of protected species is a material consideration for the competent authority when determining planning applications and the level of harm should be assessed. With the application of the mitigation measures outlined within this ecological statement, the only reasonable conclusion is that harm to both GCN and grass snake can be avoided and therefore the requirement of the ODPM Circular are met.

4.17 In additional to considering harm, Paragraph 98 recommends the use of planning conditions to secure the long-term protection of the species. This requirement can also be accommodated through the granting of planning permission. Consequently, the requirements of the ODPM can be secured with development of the Site.

Local Planning Policies

4.18 Policy DP3 recommends the protection and/or enhancement of local ecology and long-term management of habitat / landscape features. In the context of historic applications on the Site, it is our opinion proposed development of the Site subject to nature and scale is compliant with these requirements.

4.19 The site has no statutory or non-statutory protection. Therefore, the proposals are compliant with the requirements of Local Policy NE2 *Protecting Designated Biodiversity and Geodiversity Assets*.

4.20 Local Policy NE3 *Biodiversity* recommends new development should demonstrate no net loss, protect, enhance, and restore biodiversity, avoid negative impacts on existing biodiversity and safeguard biodiversity in the long-term through management. The details provided within this ecological statement demonstrate that a net gain to biodiversity will be provided through development of the Site with retained, species-poor low value improved grassland being enhanced

to promote development of more biodiverse grassland thus attaining a greater value; and the mitigation provisions are adequate to maintain the favourable conservation status of GCN / grass snake. Consequently, again, the development of the Site is compliant with the requirements of this planning policy.

5.0 CONCLUSIONS

5.1 The site comprises habitats of low biodiversity and nature conservation value, all of which are common and widespread both nationally and locally; and furthermore easily replicable (which to an extent is evidenced in the Biodiversity Impact Assessment, specifically the temporal and risk factor elements). The Site forms potential terrestrial habitat for a small meta-population of GCN and is not considered to present optimum habitat for the species. Habitat present on site also forms a small part of a wider range for a small population of grass snake although no optimal foraging or breeding habitat is present and therefore in this context is also considered of low value to the local population.

5.2 Other than the two protected species mentioned in the above paragraph, the Site also supports common and widespread species of bats and birds that are associated with boundary features to be retained under proposals. Mitigation for any minor adverse effects upon these groups can be adequately assured through green infrastructure design inherent to the proposed development and through the implementation of standard measures. The Site as a habitat resource for these two groups is of low value.

5.3 The mitigation proposed in association with the historic planning applications for the Site and the additional recommendations provided in this ecological statement can be adequately secured through the application of an appropriately worded condition to secure development of the Site results in net gains in biodiversity in addition to securing the favourable conservation status of GCN and grass snake populations in the long-term.

5.4 With the application of the mitigation proposed and an assessment of the proposals against the requirements of all relevant legislation, guidance and planning policies in Section 4 of this ecological statement (and further summarised at Section 5) it our professional opinion that the proposals conform to all relevant requirement and there are no reasons in the context of biodiversity and nature conservation why development of the Site dependent upon nature and scale.

5.5 With the application of the mitigation and appropriate working methods, it is our professional opinion that the mitigation proposed is adequate to maintain the favourable conservation status of the local GCN population. Furthermore, given the scale of likely potential effects on local GCN populations, the proposals for mitigation and enhancements at the Site it is our professional pinion that there is no reason why a European Protected Species Licence from Natural England would not be forthcoming. Consequently, the development at the Site would meet the requirements of the Regulations.

5.6 In consideration of the above-mentioned factors and the details presented within this ecological statement it is our professional opinion that the development would not affect the conservation status of either GCN or grass snake and the FCS of these populations would be maintained if not enhanced by the proposals. The proposed development also provides demonstrable / measurable net gains for biodiversity as evidenced through the use of the ‘Biodiversity Impact Assessment’ calculator.

5.7 In conclusion, it is not considered that the Site can be said to be of “particular local significance” on account of the “richness of wildlife” or any other ecological factor for the purposes of NPPF 100b.

There is a robust legislative and policy framework in place to protect wildlife on site and there is therefore no ecological basis for a designation as Local Green Space.

6.0 SUMMARY OF EFFECTS AND COMPLIANCE WITH RELEVANT POLICY AND LEGISLATION

ECOLOGICAL RECEPTOR	RELEVANT LEGISLATION AND PLANNING POLICY	POTENTIAL EFFECTS WITHOUT MITIGATION	PROPOSED MITIGATION	RESIDUAL AFFECT TO RECEPTOR CONSIDERING MITIGATION	POLICY COMPLIANCE
Statutory designated site	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3	Negligible	No specific mitigation required. All statutory designated sites are isolated from the proposed development area.	Negligible	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3

ECOLOGICAL RECEPTOR	RELEVANT LEGISLATION AND PLANNING POLICY	POTENTIAL EFFECTS WITHOUT MITIGATION	PROPOSED MITIGATION	RESIDUAL AFFECT TO RECEPTOR CONSIDERING MITIGATION	POLICY COMPLIANCE
Non statutory designated sites	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3	Negligible	No specific mitigation required. All non-statutory designated sites are isolated from the proposed development area.	Negligible	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3

ECOLOGICAL RECEPTOR	RELEVANT LEGISLATION AND PLANNING POLICY	POTENTIAL EFFECTS WITHOUT MITIGATION	PROPOSED MITIGATION	RESIDUAL AFFECT TO RECEPTOR CONSIDERING MITIGATION	POLICY COMPLIANCE
Species poor improved grassland	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3	Minor adverse effect on an ecological resource of no more than local level value.	The implementation promotion through management of species rich grassland and long term management of the grassland following development. BIA net gain in habitat biodiversity (+1.48)	Minor beneficial	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3
Hedgerow	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3	No removal proposed. Negligible.	The gapping-up of retained hedgerows. Planting of c.166 linear metres of indigenous hedgerow and native species scrub planting within GI. Net linear biodiversity gain (linear features) (+2.09). The long term management of the habitats implemented.	Minor beneficial	The Conservation of Habitat & Species Regulation 2017 (as amended) NPPF (2019) Policy DS5 Policy NE2 Policy NE3

ECOLOGICAL RECEPTOR	RELEVANT LEGISLATION AND PLANNING POLICY	POTENTIAL EFFECTS WITHOUT MITIGATION	PROPOSED MITIGATION	RESIDUAL AFFECT TO RECEPTOR CONSIDERING MITIGATION	POLICY COMPLIANCE
Great crested newts	NPPF (2019) Priority Species under S41 of NERC Act (2006) The Conservation of Habitat & Species Regulation 2017 (as amended) The Wildlife & Countryside Act 1981 (as amended) Policy NE2 Policy NE3	Loss of small areas of suboptimal habitats used by a small population of grass snake. Minor adverse effect through the loss of habitat assessed as being of no more than local level value for the species.	The implementation of new areas of shelter or rest including hibernacula, hedgerows, native species scrub planting. Improvement to foraging through the creation of species rich grassland. Improved connectivity (maintenance of corridors, provision of new linear habitat features) The implementation / promotion through management of species rich grassland. Appropriate long term management will further improve terrestrial habitats for GCN. Provision of 'stepping stone' pond within green infrastructure of proposed development The site will be cleared under a Natural England development License.	Minor beneficial	NPPF (2019) Priority Species under S41 of NERC Act (2006) The Conservation of Habitat & Species Regulation 2017 (as amended) The Wildlife & Countryside Act 1981 (as amended) Policy NE2 Policy NE3

ECOLOGICAL RECEPTOR	RELEVANT LEGISLATION AND PLANNING POLICY	POTENTIAL EFFECTS WITHOUT MITIGATION	PROPOSED MITIGATION	RESIDUAL AFFECT TO RECEPTOR CONSIDERING MITIGATION	POLICY COMPLIANCE
Reptiles	NPPF (2019) Priority Species under S41 of NERC Act (2006) The Conservation of Habitat & Species Regulation 2017 (as amended) The Wildlife & Countryside Act 1981 (as amended) Policy NE2 Policy NE3	Loss of small areas of suboptimal habitats used by a small population of grass snake. Minor adverse effect through the loss of habitat assessed as being of no more than local level value for the species.	The implementation / promotion of tussock and species rich grassland for foraging, basking, breeding. New hedgerows, native species scrub planting maintenance of corridors for connectivity. Appropriate long term management will further improve terrestrial habitats for reptiles. The Site trapped out under Method Statement agreed with LPA. Implementation of appropriate working method prior to construction to avoid harm	Minor beneficial.	NPPF (2019) Priority Species under S41 of NERC Act (2006) The Conservation of Habitat & Species Regulation 2017 (as amended) The Wildlife & Countryside Act 1981 (as amended) Policy NE2 Policy NE3