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M62 MSA Warrington

Expert Evidence in respect of Biodiversity

Volume 1 – Proof

With summary included

By

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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 Senior 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 distribution, residential, 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, L&Q (Gallagher) Estates, Tesco Stores, Aldi, Big Yellow Self Storage, Extra MSA, Vopak, Uniper, Hampton Brook, 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 development in the vicinity of European Designations including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), Sites of Special Scientific Interest (SSSIs), non-statutory designations e.g. Local Wildlife Sites (LWSs) and a wide range of Priority and non-priority habitat types e.g. grasslands, heathlands, woodlands, orchards, hedgerows and trees.

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 I was instructed in December 2021 by Extra MSA Warrington Limited to undertake a review of the proposals and the ecological work and reporting which has informed the application (ref: 2019/35726). The proposals are for an outline permission (all matters reserved except for access) for the proposed erection of a motorway service area including facilities building, up to 100 bedroom hotel, service yard, fuel filling station, electric charging station, parking facilities landscaping and amenity areas and associated infrastructure.

1.3 Reason for Refusal by Warrington Borough Council

1.3.1 Warrington Borough Council considered the application in detail with its reasoning set out in the Case Officer's report to the Planning Committee dated 01 June 2021 (CD1.2.11(a)) which recommended the grant of planning. However, on the 17 June 2021 Council Members refused planning permission for a single reason which related to green belt matters. No ecological reason for refusal was advanced. Since this time and the submission of the appeal, the Council has now reconsidered its position and withdrawn the reason for refusal. As such the Council no longer opposes the appeal on any grounds.

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 the background to the site, drawing on the ecological survey data submitted to inform the planning application, further survey work undertaken by myself, 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:

- Policy framework
- Review of the biodiversity interest of the appeal site;
- Review of the effects of the appeal proposals on the biodiversity of the site;
- Biodiversity Net Gain;
- Review of Consultation Responses.

1.4.3 Finally, my conclusions are drawn. Following a thorough review of the ecological impact assessment undertaken, I consider the proposals to be fully acceptable in ecological terms. They meet national and local policy requirements and achieve a net gain for biodiversity, which is a benefit which should be inserted on the positive side of the planning balance.

2 Policy Framework

2.1 Introduction

2.1.1 The policy framework against which the proposals will be assessed is relevant at two levels, namely the national and local levels. I discuss these below:

2.2 National Policy

National Planning Policy Framework (NPPF)

2.2.1 National policy is set out within the National Planning Policy Framework (NPPF) 2021. Chapter 15 'Conserving and Enhancing the Natural Environment' includes policies in respect of 'Habitats and Biodiversity'.

2.2.2 Paragraph 180a sets out the key biodiversity test to be applied which is that of where 'significant harm to biodiversity' cannot be avoided, mitigated or compensated then planning permission should be refused. This sequential process is termed the 'mitigation hierarchy'.

2.2.3 In addition to avoiding significant harm to biodiversity, the NPPF at paragraph 180d sets out that opportunities should be taken up to incorporate biodiversity benefits into developments especially where this can secure net gains for biodiversity. I specifically address this policy at section 6 of my proof.

National Planning Practice Guidance (NPPG)

2.2.1 Planning Practice Guidance (CD3.1.1(K&I)) provides additional detail and guidance on aspects of the National Planning Policy Framework. In respect of the Natural Environment, the PPG indicates how ecology should be considered as part of planning, sets out the mitigation hierarchy, and provides further detail on net gain and how this can be achieved.

2.3 Local Policy

2.3.1 Local policy is set out in Warrington Local Plan Core Strategy (Adopted 2014) and the emerging Local Plan Submission Version 2021.

Warrington Local Plan Core Strategy Adopted 2014 (CD3.2.1 (r&s))

2.3.2 Within the Warrington Local Plan Core Strategy, two policies are of relevance to ecology and nature conservation, namely QE3 and QE5.

2.3.3 Policy QE3 promotes an integrated approach to the provision, care and management of Green Infrastructure in the Borough, and sets out what criteria applications will be assessed against. In regard to ecology this relates to *"improving the quality of existing provision, including local networks and corridors, specifically to increase….its value as a habitat for biodiversity"* and *"to develop a continuous right of way and greenway network and integrated ecological system".*

2.3.4 Policy QE5 relates specifically to biodiversity and geodiversity, and in regard to the former seeks to protect and where possible enhance `Sites of recognised nature … value`.

2.3.5 I assess how the appeal proposals comply with the requirements of policies QE3 and QE5 at section 5 of this proof of evidence.

Warrington Local Plan Submission Version 2021 (CD3.2.2(c))

2.3.6 Section 8.4 and Policy DC4 of the plan refers to biodiversity matters and sets out that *"The Council will work with partners to conserve, restore and enhance biodiversity and secure a measurable net gain for biodiversity"*. It provides specific policy protection for protected species and priority species and proposals for development which may adversely affect these species and proposals *"will only be permitted if it can be shown that the reasons for the development clearly outweigh the need to retain the habitats or species affected and that mitigating measures can be provided which would reinstate the habitats or provide equally viable alternative refuge sites for the species affected".* It goes on to set out that "*Where development is permitted, the Council will consider the use of conditions or planning obligations to ensure the protection and enhancement of the site's nature conservation interest and/or to provide appropriate compensatory measures"*.

2.3.7 I assess how the appeal proposals comply with the requirements of policy DC4 at section 5 of this proof of evidence.

2.3.8 The explanatory text to policy DC4 at section 8.4 of the plan also highlights the presence of the Greater Manchester Wetlands Nature Improvement Area (NIA) within which the site is located. It sets out *"The NIA designation does not prevent new development, and some of the allocations in this Local Plan are within the NIA. However, a location within the NIA makes it essential that a high level of appropriate green infrastructure is incorporated within any development site in order to increase the area of priority habitats, improve connectivity between habitats and species populations and enable the movement of key species within the NIA and beyond. Also the NIA includes extensive areas of peat deposits in the east of the borough (see Fig 16), which are valuable elements of natural capital for the purposes of carbon storage in the form of restorable peat. Opportunities should be taken to restore the degraded bogs, wherever possible*" (my emphasis). I reproduce Figure 16, along with a map of the NIA, at Appendix AB1 and discuss how the proposals contribute to the NIA at paragraph 5.7.4 of this proof of evidence.

3 Review of Biodiversity Interest at the Appeal Site

3.1 Appeal Site Description and its Ecological Characteristics

3.1.1 The appeal site lies to the north of Junction 11 of the M62 in Warrington and is largely under intensive agricultural cultivation with smaller areas of other habitats also present. The western edge of the appeal site was previously part of the Risley Landfill Site which has now been restored. Overall, the appeal site is set within a semi-rural setting, with arable land to the north and east, and residential and industrial/commercial development to the south beyond the M62.

3.1.2 The appeal site itself is dominated by agricultural cropland under arable (cereal crops /autumn sown barley) and sileage production. Silver Lane Brook bounds the agricultural land to the west and flows in a northerly direction, emerging from a culvert in the south of the site which is fed from the adjacent landfill and flowing past the waterbodies within Silver Lane Risley LWS to the north. Other habitats and ecological features within the site include mixed scrub and bramble thicket, woodland, tall ruderal, lines of trees and scattered trees, ditches, pond, ephemeral standing water and hardstanding.

3.1.3 Full details of the ecology of the appeal site are set out within the Preliminary Ecological Appraisal – 2021 update, dated January 2022 (Appendix 5.15 of CD2.5.9); which supersedes the Preliminary Ecological Appraisal dated July 2019 (Appendix 5.4 of CD1.1.39) that accompanied the planning application.

3.1.4 I visited the appeal site in November 2021 and January 2022 to verify the findings reported within the ecological documents which informed the planning application and to determine whether the conclusions drawn within the ecological documents remained valid. My findings were set out within an `Update Habitat Survey and Biodiversity Net Gain Assessment`, dated January 2022, found at Appendix 5.16 of Technical Paper 5 of the Addendum ES (CD2.5.9).

3.2 Ecology survey and assessment 2018 to 2019

3.2.1 A range of ecology survey work was conducted at the appeal site between 2018 and 2019, comprising specifically a desktop study, extended Phase 1 habitat and general

faunal survey, inspections of trees for their potential to support roosting bats, bat activity surveys, Badger surveys, Otter and Water Vole surveys, assessment of waterbodies for their suitability to support Great Crested Newt and presence/likely absence surveys, reptile survey, breeding and wintering bird surveys, and invertebrates surveys. The details of the survey work are set out within the following documents, which informed the outline planning submission (2019/35726) for the site:

- Preliminary Ecological Appraisal (July 2019);
- Bat Survey Report (July 2019);
- Badger Survey Report (July 2019);
- Water Vole Survey Report (July 2019);
- Reptile Survey Report (July 2019);
- Great Crested Newt Survey Report (July 2019);
- Breeding Bird Survey Report (July 2019);
- Wintering Bird Survey Report (July 2019); and
- Terrestrial and Aquatic Invertebrate Assessment Report (July 2019).

Irreplaceable Habitats / EU Annex 1 Habitats

3.2.2 Irreplaceable habits are defined in the glossary to the NPPF as *"Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen".* None of these habitats are currently present on site. Although peat underlies part of the appeal site this is under agricultural production and therefore does not support any notable ecological habitat.

3.2.3 Annex 1 to the Conservation of Habitats and Species Regulations 2017 sets out a list of habitats for selection as Special Areas of Conservation (SACs). These include 'degraded raised bogs' which the *Interpretation manual of European habitats*

(European Commission DG Environment 1999) stresses only includes examples which are 'capable of natural regeneration' which occur in conifer plantations, improved pasture, scrub woodland, bare peat and impoverished vegetation. Habitats, such as those on the appeal site under intensive agricultural production are excluded from this list. Therefore, I consider that the habitats on the site are not classed as irreplaceable.

3.2.4 My view is in line with that of Greater Manchester Ecology Unit (GMEU) set out in their correspondence of 12 April 2019:

"It is my view that the proposed application site does not support the priority habitat type 'degraded raised bog capable of natural regeneration'. The site does not support any remnants or fragments of bog vegetation, does not support any plant species typical of bogs and is not hydrologically connected to areas of remnant bog or bog being restored".

Priority Habitats

3.2.5 The Phase 1 Habitat survey recorded the presence of Priority habitats within the appeal site in the form of `River` for Silver Lane Brook and `Lowland Mixed Deciduous woodland` for small areas of woodlands in the north and south of the appeal site. These are shown on the Phase 1 Habitat plan at Appendix AB2. These are considered to be 'important ecological features[1]' for assessment purposes but none are high quality examples of their type or are intrinsically notable at or above the local level[2]. In addition, the presence of the invasive non-native species Japanese *Rose Rosa rugosa* and Himalayan Balsam *Impatiens gladulifera* (Schedule 9 Wildlife and Countryside Act 1981) along Silver Lane Brook corridor degrades the interest of this feature further.

Other habitats

3.2.6 Other habitats and ecological features recorded within the appeal site include agricultural cropland, modified neutral grassland, tall ruderal, lines of trees and scattered trees, scrub, ditches and hardstanding were considered to be of relatively limited ecological importance.

[1] Guidelines for Ecological Impact Assessment in the UK and Ireland. 2018. CIEEM (CD3.1.3(gg))
[2] As set out in the Ecology chapter of the ES (CD1.1.39) and defined using CIEEM Guidelines for Ecological Impact Assessment (September 2018; CD3.1.3(gg))

3.2.7 The agricultural land aside, which is managed in accordance with its function, the habitats within the site appear to receive no beneficial management and accordingly, left unmanaged they will likely decline in nature. For example, non-native invasive species will likely increase their presence, particularly along Silver Lane Brook, where Japanese Rose is already present and the damp conditions are ideal for Himalayan Balsam, while habitats elsewhere will also begin to succeed. In this regard, in the grasslands coarse grasses over time will overtop, form closed root mats, and inhibit herb growth. The seed rain from adjacent areas and seeds transported by birds will facilitate the encroachment of scrub throughout the grasslands which is already well underway such that over time these will be lost, and if long enough is allowed woodland would then develop.

Fauna

3.2.8 In terms of fauna, the majority of the appeal site in the form of the agricultural land is of limited value for fauna save for a small number of farmland birds. Other habitats provide some foraging/commuting opportunities for bats, foraging Badgers, breeding birds, foraging Barn Owl and invertebrates.

3.2.9 Five trees were recorded within the appeal site, that are likely to be impacted directly or indirectly by the proposals and exhibited features with potential to support roosting bats. These trees were subject to endoscopic inspection in March/April 2019, during which no evidence was recorded confirming the presence of a bat roost. From my 2021 review (see below), conditions do not appear to have changed and accordingly this information is sufficient to inform an outline application.

3.2.10 The habitats at the appeal site are suitable for foraging bats. The results of the 2018/2019 bat transect and automated detector survey recorded relatively low numbers of bats utilising the habitats on site for foraging and commuting, with Common Pipistrelle being the most recorded species. The highest levels of bat activity were associated with scrub habitat compared to open habitat across all species whilst, during the transect surveys, Common Pipistrelle was recorded in greatest numbers at the western and eastern boundaries. Soprano Pipistrelle was recorded in the north-western corner of the site, over arable land in the north of the site and along the south west boundary. Noctule was recorded flying across open habitat.

3.2.11 No Badger *Meles meles* setts or signs of foraging Badger were recorded during surveys in 2019 but the site does offer some opportunities.

3.2.12 The appeal site supports limited opportunities for Hedgehog *Erinaceus europaeus*, a Priority Species, restricted to the tree line along the eastern site boundary.

3.2.13 The habitat within the appeal site is considered sub-optimal for Water Vole and no signs/evidence of these species were identified within the appeal site in 2019.

3.2.14 A single waterbody (WB11) and two ditches (WB8 and 9) are present within the appeal site, with a further eight waterbodies located within 500m of the appeal site (see Waterbody Location Plan at Appendix AB3). Whilst the waterbodies exhibited mixed suitability to support the protected species Great Crested Newts *Triturus cristatus*, all eleven were subject to an environmental DNA (eDNA) survey in April/May 2019 to determine presence/likely absence. All results were negative, indicating the waterbodies are not utilised by Great Crested Newts. An individual male Great Crested Newt was observed beneath an artificial refugia during the 2019 reptile survey, although based on the results of the specific survey work undertaken a breeding population is not considered to be present. Surveys have not been undertaken to determine the presence of other amphibian Priority Species, although Common Toad *Bufo bufo* was recorded along sections of Silver Lane Brook.

3.2.15 The appeal site contains a habitat mosaic of grassland and scrub, as well as arable field margins, which provide suitable foraging and sheltering opportunities for common reptile species such as Common Lizard *Zootoca vivipara* and Slow Worm *Anguis fragilis*. Damp habitats on site and the presence of the watercourse and waterbodies also provide opportunities for Grass Snake *Natrix natrix*. A survey was undertaken in all areas of suitable habitat within the Site in May 2019. No reptiles were recorded during the survey.

3.2.16 Suitable habitat is present throughout the Site for breeding bird species in the form of scrub, rough semi-improved grassland, broadleaved trees and tall ruderal vegetation. A breeding bird survey was undertaken between March and June 2019: 42 bird species were recorded, of which seven were BoCC[3] red listed bird species (with their listing due to population declines largely driven by agricultural change) namely, Herring Gull

[3] Birds of Conservation Concern 4: the population status of birds in the UK, Channel Islands and Isle of Man. Eaton et al. British Birds 108. 2015

Larus argentatus, Lapwing *Vanellus vanellus*, Linnet *Carduelis cannabina*, Reed Bunting *Emberiza schoeniclus*[4], Skylark *Alauda arvensis*, Song Thrush *Turdus philomelos*[5] and Starling *Sturnus vulgaris.* However, only five of the seven species were considered likely breeding within the appeal site. Regardless, none of these are rare or scarce in the county with all being classified as common to abundant in the Lancashire Bird Report 2019[6] (see Appendix AB4). In addition, whilst the desktop study included a single record of Barn Owl, which is subject to special protection and is listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), within 2.5km from the site in 2019, this species was not recorded at the site during the breeding bird survey or during bat activity surveys and therefore is considered not to be breeding within the site.

3.2.17 An invertebrate assessment of the site was carried out in April 2019. Terrestrial habitats were considered to afford negligible to low potential value for invertebrates of significance and so were excluded from further survey. Silver Lane Brook was subject to survey. No species of importance were recorded at the appeal site. All invertebrates recorded were considered to be `*common and widespread, typical of slow moving or still water with extensive vegetation*

3.2.18 I consider the ecological information previously provided as part of the original planning application to be acceptable and sufficient, a conclusion also shared by all ecological consultees (see section 6) and Warrington Borough Council who has never advanced an ecological reason for refusal.

3.3 Update surveys in 2021/2022

3.3.1 As set out above, I visited the site in November 2021 and January 2022 to verify the findings of the ecology work to date and to record any updates as required. The findings of this work are set out in the report entitled `Update Habitat Survey and Biodiversity Net Gain Assessment` included at Appendix 5.16 of the Addendum Ecological Appraisal (CD2.5.9). My update surveys recorded minor alterations to certain habitats described in the baseline information from 2019, although none are

[4] Reed Bunting was downgraded to `amber` in the Birds of Conservation Concern 5: the status of all regularly occurring birds in the UK, Channel Islands and Isle of Man. Eaton et al. British Birds 108. 2021
[5] Song Thrush was downgraded to `amber` in the Birds of Conservation Concern 5: the status of all regularly occurring birds in the UK, Channel Islands and Isle of Man. Eaton et al. British Birds 108. 2021
[6] Lancashire Bird Report 2019. (Lancashire & Cheshire Fauna Soc.) (see Appendix AB4)

material which would alter their faunal potential afforded to any significant degree. I would note that the alignment of Silver Lane Brook more closely matches that shown within Ordnance Survey mapping for the local area, whilst the extent of woodland habitat along the watercourse is somewhat less than was mapped in 2019 whilst the areas of tall ruderal habitat are now slightly greater in their extent than previously mapped in 2019. Overall, my 2021/2022 update surveys record that the habitats and faunal potential of the appeal site remain materially unchanged to those reported within the Preliminary Ecological Appraisal July 2019.

3.3.2 In addition, update surveys are currently underway for wintering birds which are currently ongoing with additional wintering species (e.g. snipe, jack snipe) recorded due to changes in observed habitat condition i.e. the presence of ephemeral standing water and localised patches of rushes within the agricultural land. Update surveys for Breeding Birds and Water Voles will be carried out in 2022.

3.4 Validity of Ecology Survey Data

3.4.1 The survey data which informs the appeal was carried out in the following years:

- bat roost suitability assessment (of all suitable and accessible structures and trees) 2019;
- Endoscopic inspection of trees with bat potential 2019;
- Bat activity surveys in 2018/2019;
- Great Crested Newt Surveys 2019;
- Wintering Bird Surveys 2018/2019;
- Breeding bird survey 2019;
- Badger surveys 2019
- Reptile surveys 2019;
- Water Vole Surveys 2019; and
- Invertebrate assessment of habitats 2019.

3.4.2 Reference to the British Standard BS42020:Biodiversity (CD3.1.3(ff)) sets out at section 6.2 in regard to 'adequacy of survey information' that all information should be *"sufficiently up to date (e.g. not normally more than two/three years old, or as stipulated in good practice guidance)"*. In the case of the survey data for the appeal site, this is typically between two and three years old.

3.4.3 Of relevance in this circumstance is that BS42020 includes the note included that:

"NOTE The shelf life of any given survey depends on the type of survey undertaken and whether environmental conditions within the study area were "normal" or unusual at the time undertaken (e.g. extreme weather), or are likely to have changed or remained the same. The greater the recent change, the greater the need for up-to-date information".

3.4.4 With reference to my 2021/2022 update survey, this finds that conditions at the appeal site have been largely static and accordingly there has been very little 'recent change'. This therefore reduces the need for update survey work. It is standard practice in these circumstances for data in excess of 3 years to be acceptable for assessment purposes and I see no reason why this should not be the case here. The data were collected using industry standard methods to best practice standards and site conditions have changed little since the time of the surveys. Accordingly, I would not anticipate that new surveys would yield any materially different results. Further, given the appeal is of an outline nature, I consider that the survey information available is 'adequate' in nature and fit for purpose to inform a planning decision.

3.4.5 Notwithstanding the above, a suite of update survey work is being undertaken by Wardell Armstrong, and Chapter 5 of the Addendum to Environmental Statement Part 2 (Appendix 5.14 of CD2.5.9) includes an interim technical note on the update Wintering Bird surveys to date.

4 Review of the effects of the appeal proposals on the biodiversity of the Site

4.1 Introduction

4.1.1 The appeal proposals have been tested via EIA August 2019, with the ES updated by way an Addendum ES in January 2022 (see CD2.5). Part 2 of this Addendum comprises the ecology chapter (Ecology and Nature Conservation Technical Paper 5). I review the chapter here and the assessment carried out in order to form a view as to the appropriateness of the assessment.

4.2 Methodology

4.2.1 The assessment has been undertaken in a number of stages, namely:

- Scoping and consultation;
- Identification of the likely zone of influence of the Proposed Development (study area);
- Identification and evaluation of ecological features likely to be affected (the baseline environment);
- Identification of the biophysical changes likely to affect important ecological features, and an assessment of whether these biophysical changes are likely to give rise to a significant ecological effect;
- Refinement of the Proposed Development to incorporate ecological mitigation and enhancement measures to avoid, reduce or compensate for any significant adverse effects; and
- Assessment of the predicted residual impacts taking mitigation and enhancement measures into account, and evaluation of the significance of the consequent residual effects.

4.2.2 The assessment method itself follows the industry standard as set out in the publication 'Guidelines for Ecological Impact Assessment in the UK and Ireland. Terrestrial, Freshwater and Coastal' 2018 by the Chartered Institute of Ecology and Environmental Management (CD3.1.3(gg)).

4.3 Assessment

4.3.1 Section 7 of the Addendum to the ES (CD2.5.9) sets out an assessment of predicted impacts of the proposed development on important habitats in the absence of mitigation, Section 8 sets out matters of mitigation/compensation and Section 9 sets out what the potential residual effects would be following the implementation of appropriate mitigation/compensation. I provide a summary of the assessments below, in terms of construction and operational phases of development, although I advise the relevant sections of the ES are referred to for the full detail of the nature of the impacts and how the mitigation serves to reduce the effects.

4.3.2 In accordance with CIEEM guidance[7], detailed assessment of impacts has been limited to ecological features considered to be of importance at the 'local' level or above.

4.4 Construction Effects, Mitigation and Compensation

4.4.1 **Statutory Designations.** Hydrological impacts to Manchester Mosses SAC have been identified as a potential effect during construction. However, work for the ES has shown that the appeal site is not hydrologically associated with the Manchester Mosses SAC. Further assessment of this is set out within Paper 3: Water Resources (CD2.5.6) and within 'Information to inform a Habitats Regulation Assessment' (CD1.2.4). In the absence of hydrological connectivity to the SAC, a likely significant effect of the SAC can be screened out without a need to continue to the Appropriate Assessment stage. This assessment is confirmed by GMEU in their consultation response dated 12/04/2019 (CD Appendix 1) and by Natural England within their consultation response dated 26/02/2020 (CD Appendix 1).

4.4.2 **Non-Statutory Designations**. Hydrological impacts to Pestfurlong Moss/Silver Lane Risley LWS have also been identified as a potential effect during construction. However, the assessment in respect of the Manchester Moss SAC is applicable to hydrological impacts on the LWS, which are also considered to be negligible.

4.4.3 **Habitats.** The direct loss of arable land (11.44ha), grassland (1.16ha), broadleaved woodland (0.37ha), scrub (0.23ha), tall ruderal (1.15ha) and a waterbody (0.01ha)

[7] Guidelines for Ecological Impact Assessment in the UK and Ireland. Terrestrial, Freshwater and Coastal' 2018 by the Chartered Institute of Ecology and Environmental Management (CD3.1.3(gg))

would result in a minor adverse effect at the local level in the absence of mitigation/compensation. The loss of 0.659km of Silver Lane Brook will result in a minor adverse effect at the Borough level. The landscaping strategy incorporates compensatory planting of ~1.3ha of woodland/scrub, ~3.0ha of species-rich grassland, and re-routing of the watercourse resulting in an enhanced corridor of greater length at 0.94km, such that residual effects are considered to be a minor benefit. The loss of trees and impacts to root protection areas (RPA) results in a minor adverse residual effect, although this will be minimised through adherence to an Arboricultural Method Statement and Tree Protection Plan. In addition, the sub-soil peat deposits will be extracted and relocated to the east of the appeal site creating a lowland bog like type habitat, as set out within the Peatland Ecological and Construction Management Plan (January 2020; CD1.2.9(f)).

4.4.4 Pollution events have potential to result in minor, negative, significant effects on retained habitats in the absence of mitigation, whilst other construction activities could result in the spread of invasive species recorded at the site. However, through adherence to a Construction Environmental Management Plan (CEMP) (Appendix 12 of CD2.5.2), residual effects are minimised. The CEMP will include a method statement for the control of invasive species to address this issue.

4.4.5 **Fauna**. The loss of habitats at the site will reduce foraging and nesting/roosting habitat and places of shelter for species including low numbers of common bats, common breeding birds (nine UK Priority Species of which five are red listed species[8]), wintering birds (ten UK Priority Species of which seven are red listed species) which also use the agricultural land such as Lapwing and Snipe, Common Toad (Priority Species) and invertebrates. In the absence of mitigation/compensation, these effects are considered largely to be minor adverse at local level. The landscaping strategy incorporates compensatory habitats of higher quality than being lost and enhances retained habitats; maintaining foraging opportunities and connectivity around and through the site, which will reduce effects on fauna, albeit residual effects are still considered to be minor adverse.

4.4.6 Construction activities also have potential to disrupt breeding and wintering birds, including seven red listed species that are also UK Priority Species, leading to their

[8] Birds of Conservation Concern 5: the status of all regularly occurring birds in the UK, Channel Islands and Isle of Man. Eaton et al. British Birds 108. 2021

displacement, whilst lighting may affect bird sleep patterns which could be detrimental to their survival. Lighting also has potential to cause disruption to low numbers of foraging and commuting bats recorded using the appeal site, as well as affecting feeding, breeding and movement of common invertebrates which may result in fragmented populations, reduced populations and pollination rates, and in turn affect the site as a foraging resource. These effects are determined to be minor adverse. Increased lighting and noise from vehicle movements has the potential to disturb the Priority Species Common Toad, although these effects are considered to be negligible (not significant). However, through the fencing off of retained habitats, sensitive timing of works, and adherence to an approved CEMP to control lighting levels and pollution events, effects are considered to reduce still further.

4.4.7 In regard to Great Crested Newts, terrestrial habitat on site is limited and breeding habitat is absent, whilst waterbodies within 500m of the site have tested negative for the presence of this species. However, given the incidental record of a lone male Great Crested Newt from the site in 2019, there is minor potential for harm to occur to wandering / dispersing individuals during site clearance. Therefore, as a precautionary measure, further eDNA testing of the waterbodies within 500m of the site will be undertaken prior to the onset of construction with consideration to licensing should a positive result be obtained. This procedure will be included within the final CEMP as will a watching brief for newts (see Framework Construction Environmental Management Plan (CEMP) August 2019 – See Appendix 12 of CD2.5.2).

4.5 Operational Effects, Mitigation and Compensation

4.5.1 **Statutory Designations.** Potential for air quality impacts leading to increased Nitrogen deposition on Manchester Mosses SAC were considered, however, as the use of the development will be by existing users of the motorway network, and given the distance between the site and the SAC, impacts are considered not to result in a likely significant effect such that effects can be screened out without a need to continue to the Appropriate Assessment stage.

4.5.2 **Non-Statutory Designations.** Silver Lane LWS has potential to be adversely affected by changes in hydrology and through accidental pollution and/or sediment transfer as a result of development, particularly during the realignment of the on-site section of Silver Lane Brook, resulting in minor adverse effects at the local level in the absence

of mitigation. However, these effects will be avoided/minimised through the adherence to an approved CEMP.

4.5.3 Off-site habitats, such as those associated with Silver Lane Risley LWS, have potential to be subject to damage from flooding during/following extreme rainfall events, resulting in adverse effects at the local level. However, the drainage scheme for the development incorporates a SuDS mechanism for ameliorating these effects.

4.5.4 Disturbance to Silver Lane Risley LWS by recreational users could result in damage to habitats and the floral assemblage through increased trampling. However, footpaths are already established adjacent to the site, which would direct use. In any event, the habitats at Silver Lane Risley LWS are of relatively recent origin and therefore anticipated to be fairly resilient to disturbance. Nonetheless, in the absence of mitigation minor adverse effects are anticipated at the local level. However, to avoid increased public pressure, signage within the development will direct visitors to the formalized paths already established around the LWS as well as providing optional routes within the development's landscaped areas.

4.5.5 **Habitats.** Potential for pollution events and sediment transfer have potential to result in minor adverse effects on Silver Lane Brook watercourse during the operation of the Site. However, adherence to an approved CEMP which will include a number of features to prevent flooding during extreme rainfall events, whilst the incorporation of oil and fuel separators within the drainage design will minimise these effects.

4.5.6 **Fauna.** No roosts have been identified within or adjacent to the Appeal Site, therefore no adverse effects on roosting bats are anticipated. In regard to foraging/commuting bats, disturbance from the adjacent M62 is considered to already arise whilst foraging potential afford by existing habitats is limited. Nonetheless, in the north, south and south-west of the appeal site may be significantly adversely affected by light spill, dissuading use by bats, and thus resulting in a minor adverse effect at the local level in the absence of mitigation. However, through the implementation of a sensitive lighting strategy and creating light barriers through tree planting, effects on bats will be minimised.

4.5.7 Anthropogenic disturbance via vehicle movements, increased lighting /light spill into adjacent habitats, and noise have potential to adversely affect breeding and wintering bird assemblages on habitats adjacent to the site. However, given the absence of

sensitive bird assemblages and lack of abundant opportunities for nocturnal/crepuscular species, impacts by the lighting scheme are not anticipated. In addition, birds utilising land adjacent to the M62 are likely to be habituated to some level from disturbance, such that adverse effects are expected to be minor and at the local level in the absence of mitigation. Nonetheless, proposed tree planting at the site boundaries will mitigate disturbance effects to fauna adjacent to the appeal site, including fauna associated with the farmland habitats such as the limited assemblage of wintering birds.

4.5.8 Loss of invertebrate populations through accidental pollution and/or sediment transfer would result in minor adverse effects at the local level in the absence of mitigation, based on an impoverished baseline assemblage. However, effects will be minimised through adherence to the CEMP and approved drainage strategies while the removal of the land from agricultural production will in turn remove the inputs of herbicides and pesticides such that the ecological potential of the habitats to support invertebrates to act as prey items for other species e.g. birds and bats, will be dramatically increased.

4.5.9 In addition to the above, a monitoring programme is proposed to assess the success of establishment, composition, and structure of newly created habitats, including those forming the wildlife corridor along the realigned Silver Lane Brook, and identify remedial actions if necessary. The Peat Habitat Zone will be subject to further assessment focusing on the hydrological conditions to ensure the relocated deposits remain wet and that typical lowland bog like flora is establishing. Monitoring measures would be detailed within a Landscape and Habitat Management Plan.

4.6 Cumulative Effects

4.6.1 The cumulative impact assessment took into account the HS2 development adjacent to the appeal site. The assessment examined the cumulative impact that this development could have on features of nature conservation interest, and it was determined that an additive effect via disturbance to a range of ecological receptors would arise that may lead to displacement of breeding and wintering birds and minor displacement of foraging and commuting bats. However, the assessment concluded that once mitigation/compensation had been applied, additive effects would be of limited significance overall.

4.7 Conclusion

4.7.1 Following my review above, I consider that the ecology chapter of the ES has correctly applied relevant guidance, followed an appropriate methodology and the assessment carried out is accurate. No significant residual effects remain, following mitigation, such that the appeal proposals are compliant with both national and local policy (see section 2 of this evidence).

5 Biodiversity Net Gain

5.1 Introduction

5.1.1 The concept of biodiversity net gain is set out in policy and operates in parallel to the EIA process which is required by legislation.

5.1.2 Paragraphs 174d and 179b of the NPPF set out that net gains for biodiversity should be delivered by development proposals:

"174d Planning policies and decisions should contribute to and enhance the natural and local environment by….minimising impacts on and providing net gains for biodiversity;

179b To protect and enhance biodiversity and geodiversity, plans should…. identify and pursue opportunities for securing measurable net gains for biodiversity".

5.1.3 These policies for net gains for biodiversity are taken further by emerging legislation.

5.2 Environment Act 2021

5.2.1 The Environment Bill received Royal Accent in November 2021, such that it is now an Act of Parliament with a mandate for development in England to achieve a net gain in biodiversity. The act sets out the need to achieve a minimum 10% gain, calculated using an approved metric (calculation tool), with habitat obligations secured for at least 30-years. However, secondary legislation is required to implement these commitments to Biodiversity Net Gain which is not expected to be passed until 2023. The 10% biodiversity net gain requirement set out in the Act is therefore not yet law, such that the net gains sought under the NPPF can be fully satisfied with a 1% net gain.

5.3 Local Policy

5.3.1 This is in line with up to date local policy which seeks to secure measurable net gains for biodiversity, with no threshold net gain level specified.

5.4 Appeal precedent

5.4.1 Biodiversity net gain was the subject of a recent review within the Malmesbury case[9] January 2022 within which the Planning Inspector determined that *"although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and is not applicable to these appeals. Policy CP50 of the CS, and Paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. A net gain of just 1% would be policy compliant in these circumstances. This could be secured by a planning obligation".*

5.5 Methodology

5.5.1 To quantify the level of biodiversity net gain that can be delivered under the proposed development, the change in biodiversity value resulting from the scheme has been calculated using the Defra 3.0 Biodiversity Metric calculation tool. 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 Guide[10]:

"Biodiversity units are calculated using the size of a parcel of habitat and its quality. The metric uses habitat area (measured in hectares) as its core measurement, except for linear habitats (hedgerows and lines of trees and rivers and streams) where habitat length (measured in kilometres) is used.

To assess the quality of a habitat biodiversity metric 3.0 scores:

a. Habitats of different types, such as woodland or grassland, according to their relative biodiversity value or distinctiveness. Habitats that are scarce or declining typically score highly relative to habitats that are more common and widespread.

b. The condition of a habitat. Scoring the biodiversity value of the habitat relative to others of the same type.

[9] Appeal ref: APP/Y3940/W/21/3278256 (CD4.9)
[10] The Biodiversity Metric 3.0. User Guide. Natural England Joint Publication JP039. July 2021 (CD3.1.3(mm))

c. Being 'better' and 'more joined-up' are important facets of habitats that can contribute to halting and reversing biodiversity declines12, so the metric also accounts for whether or not the habitat is sited in an area identified, typically in a relevant local strategy or plan, as being of strategic 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 biodiversity metric 3.0. If habitat is created to compensate for losses elsewhere, then the metric also takes account of its proximity to the site of the losses."

5.5.2 At the present time the Defra 3.0 Metric is the most recent version, with a further update is anticipated to 3.1. Prior to the Defra 3.0 Metric, a 2.0 beta testing form was widely used.

5.5.3 To establish the habitat baseline, broad habitat areas have been identified based on the survey work undertaken at the site, with habitat condition and connectivity scores assigned based on the guidance set out in the Technical Supplement[11] and professional judgement. This has been informed by specific survey work undertaken during the 2021/2022 update survey.

5.5.4 The post-development habitat creation and enhancement is based on the current 'Indicative Site Plan' RMS – 519 – ZZ – XX – DR – A – 0751 P9 (Architecture 519, 2019) and the 'Indicative Landscape Masterplan' LM1 (SLR Consulting, 2019).

5.6 BNG Assessment and Results

5.6.1 The development will require the removal of habitats with permanent losses associated with the footprint of the MSA development itself, including all buildings, internal roads, car parking, retaining structures, hard landscaping and footpaths/walkways.

5.6.2 The majority of losses arise to cropland (arable/silage 11.44ha), a habitat of low ecological value that requires limited compensation. Smaller areas of habitats of somewhat greater ecological value are also lost to the proposals in the form of woodland (0.37ha), grassland (1.16ha), tall ruderal (1.15ha) and the linear habitats of

[11] Natural England (July 2021) *Natural England Joint Publication JP039. Biodiversity Metric 3.0: auditing and accounting for biodiversity – Technical Supplement (CD3.1.3(nn)).*

lines of trees, ditches and the Silver Lane Brook which are compensated by extensive new high quality habitat creation of 16.06ha.

5.6.3 Of this a substantial area (1.49ha) will be dedicated to a lowland raised bog (peatland) like habitat of high biodiversity value (see Peatland Ecological and Construction Management Plan for more details – CD1.2.9(f)), while the Silver Lane Brook is re-created within a new channel which is specifically designed to benefit biodiversity, including a range of high value features such as riffles, pools and backwaters (see Framework Habitat Management Plan (HMP) report (ES Addendum Appendix 5.10) for more details – CD2.5.9).

5.6.4 The effects on these habitats is discussed in more detail in the Biodiversity Net Gain Assessment report January 2022 (see CD2.5.9) which forms Appendix 5.16 to the ecology chapter of the addendum ES.

5.6.5 In summary, the DEFRA 3.0 Biodiversity Impact Assessment Calculator indicates that the development will result in +8.17% gain in habitat units for biodiversity with the provision of lowland raised bog like habitat. A net gain is also recorded for linear habitats (lines of trees) and River Units. The results are broken down in Table 5.1 below:

5.6.6 **Table 5.1** Net gain with the metric coded to include lowland raised bog

	Change in Units	% Change
Habitats	3.18	+8.17%
Hedgerows	0.79	+39.30%
Rivers/Streams	0.75	+10.28%

5.6.7 I note therefore that a fully policy compliant (see section 5.4 above) biodiversity net gain is provided for all habitat types with the quantum of the gain agreed with Greater Manchester Ecology Unit in their correspondence dated 09 February 2022 (CD2.6.1).

5.7 Quantum of BNG - Accounting for lowland raised bog like habitat

5.7.1 I would highlight that the provision of 'lowland raised bog' like habitat does not provide an elevated biodiversity unit uplift under the metric, despite the desirability of creating this 'very high distinctiveness' habitat type. Indeed, this is surprising given

the special and scarce nature of this habitat type (it is a Priority habitat type, forming an Annex 1 habitat of the Habitats Regulations 2017 and it is restricted to a coverage in Great Britain of ~3,836ha[12] which makes it ~159 times more scarce than ancient woodland[13]).

5.7.2 Examination of the metric shows that the low biodiversity unit score is attributed to the negative risk multiplier associated with the habitat type due to its 'difficulty of creation' being rated as 'very high'.

5.7.3 The 'Update Habitat Survey and Biodiversity Net Gain Assessment 2022' (CD2.5.9 – Appendix 5.16) acknowledges this multiplier within the metric but then makes an adjustment to this (see section 5.2 of the report) by the application of a proxy based on professional judgment in line with footnote 48 of the Defra 3.0 User Guide (CD3.1.3(mm)) which states *"ecological judgement should always be applied in determining the most appropriate replacement habitats, based on the nature of the habitats being lost and the location"*.

5.7.4 In commenting on the use of a proxy, the Greater Manchester Ecology Unit set out in their correspondence dated 09 February 2022 – see CD2.6.1) that *"The use of a proxy to conclude a seemingly significant uplift takes no account of the risks and uncertainties of attempting to create a habitat on relocated, remodelled engineered peat"*. I would highlight however that reference to the 'Update Habitat Survey and Biodiversity Net Gain Assessment 2022' report shows this is not the case. On the contrary, the use of a proxy is fully justified in the report and I would agree with this, as this is based on the specific circumstances of this case. These factors are overlooked by GMEU and include importantly that:

- A high level of technical expertise and experience is held by the Extra technical project engineers (Wardell Armstrong) in lowland raised bog like habitat creation (see section 1.2 entitled 'previous experience and contractor input' of the 'Peatland Ecological and Construction Management Plan' 2020 – CD1.2.9(f));

[12] An Inventory of lowland raised bogs in Great Britain. Scottish Natural Heritage. 1996
[13] 609,990 hectares of ancient woodland is present in the UK. States of the UK's Woods and Trees 2021. Woodland Trust

- A high level of local expertise is held by Warrington Borough Council and the Cheshire Wildlife Trust. Warrington Council Ranger Service directly manage Risley Moss which lies ~1.15km to the south of the appeal site and is one of only two examples of peatland in Cheshire where the water level has been raised and steps taken to encourage the regeneration of an active mire surface (see Appendix AB5). The other example of a lowland raised bog in Cheshire is Holcroft moss which lies ~1km to the east of the appeal site and is managed by Cheshire Wildlife Trust (see Appendix AB5);

- The project is offering secure and significant financial backing to the lowland bog habitat creation proposals (which is rarely available for conservation projects);

- The lowland bog like habitat will be secured for life of development (not just 30 years specified by the biodiversity net gain assessment process). Hence, the benefit is not fully recognised by the metric;

- The creation of lowland raised bog is a key aim of the Greater Manchester Wetlands Nature Improvement Area (NIA) as highlighted in the Warrington Local Plan Submission Version 2021 (CD3.2.2(c)) as set out at section 2.3.8 above. I would highlight that the Local Plan particularly emphasises that "*the NIA includes extensive areas of peat deposits in the east of the borough…which are valuable elements of natural capital for the purposes of carbon storage in the form of restorable peat. Opportunities should be taken to restore the degraded bogs, wherever possible*" (my emphasis). This proposal supports the aims and objectives of the NIA.

- The proposal for the creation of lowland bog like habitat has the support of Natural England, as they set out in their correspondence dated 28 October 2019 which states *"With regards to the Planning Statement, Revision B, (Spawforths, August 2019) we support the proposal to try and create new bog habitat using the relocated peat"*.

5.7.5 Therefore, it is my opinion that in this instance, due to the above points, considerably increased confidence can be ascribed to the potential success of the proposed lowland bog like habitat creation proposals. Accordingly it is appropriate to select a proxy

within the metric to more accurately reflect the ecological benefit which will arise from the proposed lowland bog like habitat creation.

5.7.6 Should the proposal have been to bring forward an alternative safer (but less ecologically valuable) habitat choice, it is likely that the habitat of 'other neutral grassland' would have been selected. This provides a much increased biodiversity unit gain under the metric such that overall a net gain of 31.7% would be achieved. Therefore, in this instance, to reflect the at least equivalent ecological value that will be delivered by the lowland bog habitat, 'other neutral grassland' has been substituted in the metric as a proxy.

5.7.7 Indeed, I would emphasise that there are very few opportunities to restore lowland raised bog which arise where expertise, equipment and resourcing are available. As such, where these factors are available such projects should be strongly encouraged. At present the metric, in its unadjusted form, does not encourage such projects to come forward, with the alternative being that more common habitats are created (e.g. 'medium distinctiveness' other neutral grassland) at the expense of the scarcer more valuable habitat types (e.g. 'very high distinctiveness' lowland raised bog) which should be otherwise targeted as a high conservation priority when possible.

5.7.8 In the unlikely event the lowland bog habitat creation should partially fail, the resulting habitats would represent a matrix of 'lowland heathland' (which is in itself a 'high' distinctiveness habitat type) and 'other lowland acid grassland' (which has the same biodiversity unit value as 'other neutral grassland') i.e. a highly ecologically desirable habitat matrix, at least as valuable as other neutral grassland, if not more so.

Conclusion

5.7.9 In conclusion, I consider that the clear conservation priority should be to restore such scarce habitats as lowland raised bog, and where circumstances exist where the risks of failure are much reduced, this should not be penalised in the metric (and even in the unlikely event that failure occurred other valuable habitats would arise in any event). Selecting the simpler option of creating 'other neutral grassland' or similar will not lead to the restoration of the UK's raised bogs, while similarly under the alternative of a do nothing scenario, if planning is not granted, this would result in a continuation

of the agricultural use of the site and the gradual erosion of the underlying peat[14] and its stored carbon.

5.7.10 As such I consider it appropriate to use a proxy of 'other neutral grassland' which records a +31.7% net biodiversity gain in habitats at the appeal site. Accordingly, this represents a significant benefit of the appeal proposals which are in accordance with both national and local policy (see section 2 of this evidence).

5.8 Accounting for HS2

5.8.1 The 'Update Habitat Survey and Biodiversity Net Gain Assessment' report (CD2.5.9 – Appendix 5.16) also accounts for the HS2 proposals. These include a temporary construction access and storage locations, utility connection zone and a permanent access. Accounting for these factors the total net biodiversity habitat gain is adjusted to +28.91%, a figure with which I agree.

[14] Loss of peatland and its stored carbon occurs gradually but continuously under standard agricultural management of the land

6 Review of Consultation Responses

6.1 Introduction

6.1.1 A number of consultees have responded in respect of biodiversity matters. These include:

- Natural England;
- Greater Manchester Ecology Unit (GMEU);
- Environment Agency; and
- Third parties.

6.1.2 I discuss these responses in more detail below:

6.2 Natural England

6.2.1 Natural England has provided three consultation responses (CD Appendix 1), dated 28 October 2019, 26 February 2020 and 17 June 2020.

6.2.2 Within Natural England's consultation response of 28 October 2019 they set out that they *"support the proposal to try and create new bog habitat using the relocated peat"*.

6.2.3 Natural England, in their consultation response dated 26 February 2020, consider potential impacts on Manchester Mosses SAC and conclude `*that the proposed development will not have likely significant effects on the Manchester Mosses Special Area of Conservation (SAC)*`, and in regard to Risley Moss and Holcroft Moss SSSIs `*that the proposed development will not damage or destroy the interest features for which the site has been notified…*`. Overall, Natural England confirm in this consultation response that they do not object to the proposals, and that following a review of the Peatland Ecological and Construction Management Plan suggest only a single amendment.

6.2.4 Natural England's most recent consultation response dated 17 June 2020 confirms they have no further comments following the review of additional information. Hence, their previous response where they register no objection to the proposals remains relevant.

6.3 Environment Agency

6.3.1 Five consultation responses (CD Appendix 1) have been received from the Environment Agency dated 30 October 2019, 10 January 2020, 14 February 2020, 27 April 2020 and 26 November 2020. The Environment Agency register no objection to the appeal proposals albeit do propose a number of conditions e.g. fish rescue, to safeguard the biodiversity of the aquatic environment during the works to re-route the Silver Lane Brook.

6.4 Greater Manchester Ecology Unit (GMEU)

6.4.1 Greater Manchester Ecology Unit (GMEU) has provided five consultation responses (CD2.6.1 and CD Appendix 1) dated 12 April 2019, 18 June 2020, 27 November 2020, 08 June 2021 and 09 February 2022.

6.4.2 GMEU advise that the peat resource at the site *`is not considered an Annex 1 Habitat…given its severely modified condition`*[15] and *`is not hydrologically connected to areas of remnant bog or bog being restored`*[16], and therefore in regard to effects on statutory designations *`concur with the advice provided by Natural England as the SNCO (statutory nature conservation organisation)`*[17]. In regard to the compensation for the loss and disturbance of peat by its removal/relocation via a scheme to create a Peatland Habitat Zone, the GMEU consider the approach appropriate.

6.4.3 Overall, GMEU do not object to the proposals on ecological grounds and are satisfied that appropriate conditions will ensure that *`the relevant wildlife legislation and protection of the wider biodiversity resources are fully implemented during construction and operation of the scheme`*[18]. The GMEU suggests conditions in their consultation response dated 18 June 2020.

6.4.4 Following a review of the ES Addendum in February 2022, GMEU confirm their position remains broadly unchanged and they continue to register no objection to the proposals. GMEU also confirm their view that the proposals will achieve a net gain for biodiversity of at least +8.17% although they do not accept that with the use of a proxy

[15] GMEU consultation response dated 18 June 2020 (CD Appendix 1)
[16] GMEU consultation response dated 19 April 2019 (CD Appendix 1)
[17] GMEU consultation response dated 18 June 2020 (CD Appendix 1)
[18] GMEU consultation response dated 08 June 2021 (CD Appendix 1)

this value rises to +31.7% (or to +28.981% when adjusted for HS2). However, in making this comment GMEU overlook a number of factors which make the use of a proxy appropriate in this instance and I discuss this further at section 5.7 above.

6.5 Third parties

6.5.1 A range of general comments on biodiversity have been received from third parties. These are summarised at section 3 of the Committee Report (CD1.2.11(a)) and include references to: Impacts on Manchester Mosses SAC, impacts on habitats within Silver Lane LWS and adjacent landfill site and associated wildlife, effects on visitors to Risley Pools; disruption to wildlife habitats and potential presence of Great Crested Newts; pollution events on Silver Lane Brook, presence of birds of conservation concern, Roe Deer, peat resource, loss of farmland as an operational resource, compensation proposed in respect of impacts on the peat resource and subsequent management and the need for a financial contribution through S106 to offset impact upon biodiversity.

6.5.2 Further comments have been received since the appeal was lodged and these largely echo those submitted during the planning application, with additional reference to: Pollution events on existing watercourses from surface water run-off, consideration of combined effects with HS2 proposals on local habitats and wildlife, and loss of recreational opportunities for watching wildlife.

6.5.3 The survey and assessment work carried out for the ecology chapter of the ES, and subsequent update survey work detailed in the ES Addendum, is comprehensive in nature and has taken account of these species/ species groups as well as habitat mitigation, compensation and future management, whilst impacts on nature conservation designations have been considered in detail. Accordingly, I consider these points are fully addressed.

6.6 Conclusion

6.6.1 From my review of the consultation responses received, I note there are no outstanding objections from statutory consultees or Council Officers, while the points raised by third parties are fully addressed.

7 Summary and Conclusions

7.1.1 Outline planning application (ref: 2019/35726) for the proposed erection of a motorway service area including facilities building, up to 100 bedroom hotel, service yard, fuel filling station, electric charging station, parking facilities landscaping and amenity areas and associated infrastructure has been considered by Warrington Borough Council in the Case Officer's report to Committee which recommended the grant of planning permission. However, on the 17 June 2021 Council Members refused planning permission for a single reason which related to green belt matters. No reason for refusal was advanced on ecological grounds.

7.1.2 Since this time and the submission of the appeal, the Council has now reconsidered its position and withdrawn the reason for refusal. As such the Council no longer opposes the appeal on any grounds.

7.1.3 The policy framework against which the appeal proposals should be assessed is set out in the NPPF (2021) and within Warrington local plans, both adopted and emerging. I set out the key policy tests of relevance to the appeal proposals and assess scheme compliance to these.

7.1.4 The appeal site has been subject to a range of ecological surveys carried out across a number of years including a desktop study to source the locations of designations and existing species records. Specific surveys have been undertaken for habitats, bats, Great Crested Newts, breeding and wintering birds, Badgers, reptiles, Water Voles, Otters and invertebrates. These have been conducted using industry standard methods and are sufficiently up to date to inform a planning decision.

7.1.5 In terms of statutory ecological designations, Manchester Mosses SAC, which comprises two components, lies ~1.15km south of the site and ~1km east of the appeal site. The non-statutory designation of Pestfurlong Moss/Silver Lane Risley LWS lies ~0.1km to the north-west of the appeal site.

7.1.6 In respect of on-site habitats, Priority Habitat is present in the form of Silver Lane Brook and a number of the small woodland blocks. However, none are high quality

examples of their type such that effects on these habitats can be readily mitigated or compensated. Other non-priority habitats on the site are of limited importance.

7.1.7 Turning to fauna, survey work has recorded that the majority of the appeal site in the form of the agricultural land is of limited value for fauna save for a small number of farmland birds. Other habitats provide some foraging/commuting opportunities for bats, foraging Badgers, breeding birds, foraging Barn Owl and invertebrates. A single Great Crested Newt was recorded on site but appears to have been a wandering / dispersing individual as survey work of surrounding ponds recorded no evidence of the presence of the species.

7.1.8 The scheme has been subject to an Environmental Impact Assessment (EIA) with the ES updated in January 2022, by way of the production of an Addendum ES (CD2.5). I have reviewed the ecology chapter of the EIA in terms of its assessment of designations, habitats and fauna and I consider that it has been carried out using an appropriate methodology.

7.1.9 The EIA addresses designations, while potential effects on the SAC have also been considered within a shadow Habitats Regulation Assessment (HRA) (CD1.2.4) with particular attention paid to hydrological and air quality effects. This assessment has concluded that no likely significant effects would occur and these can be screened out and the need to progress to further analysis via an Appropriate Assessment is not necessary. Natural England has been consulted on the shadow HRA and is in full agreement with its findings.

7.1.10 In regard to the non-statutory designation of Pestfurlong Moss/Silver Lane Risley LWS, analysis of potential effects on the LWS concludes that hydrological links are absent while other potential effects can be readily addressed via mitigation measures.

7.1.11 The scheme will lead to direct losses of habitat with the majority of losses centred on agricultural land (11.44ha) which is of low ecological value. Losses of other habitats include grassland (1.16ha), broadleaved woodland (0.37ha), scrub (0.23ha), tall ruderal (1.15ha) and a waterbody (0.01ha), while 0.659km of Silver Lane Brook is also lost. Mitigation for losses is provided by way of the site landscaping strategy which incorporates compensatory planting of ~1.3ha of woodland/scrub, ~3.0ha of species-rich grassland and re-routing of the watercourse resulting in an enhanced corridor of greater length at 0.94km. Sub-soil peat deposits will be extracted and relocated to the

east of the appeal site creating a lowland bog like type habitat (1.49ha), as set out within the Peatland Ecological and Construction Management Plan (January 2020; CD1.2.9(f)). This is a very high value habitat type and its proposed creation represents a significant ecological opportunity. Other mitigation measures, such as adherence to a CEMP and use of SUDs, will ensure that retained habitats are safeguarded.

7.1.12 The loss of habitats at the site will reduce foraging and nesting/roosting habitat and places of shelter for species including low numbers of common bats, breeding birds (nine UK Priority Species of which five are red listed species), wintering birds (ten UK Priority Species of which seven are red listed species) which also use the agricultural land such as Lapwing and Snipe, Common Toad (Priority Species) and invertebrates. Mitigation will be employed such as within the CEMP to manage effects e.g. construction lighting as well as the final operational lighting scheme being subject to ecological input to ensure it is sensitive. Re-sampling of ponds within the typical home range of Great Crested Newts will ensure this species is unlikely to be encountered and in the event presence is recorded, licensing will be obtained from Natural England. New habitat creation, such as in the form of lowland bog like habitat, grassland, woodland, scrub, tree lines and ditches will provide replacement opportunities for fauna. The removal of the land from agricultural production will in turn remove the inputs of herbicides and pesticides such that the ecological potential of the habitats to support invertebrates to act as prey items for other species e.g. birds and bats, will be dramatically increased. A monitoring programme is proposed to assess the success of establishment, composition, and structure of newly created habitats and will identify remedial actions if necessary. The habitats created will be the subject of a fully funded habitat management plan for the life of the development. Following mitigation and compensation, no significant adverse effects will arise on the fauna of the appeal site.

7.1.13 As well as the EIA process, it is necessary to assess the appeal proposals in terms of their policy compliance, in relation to which the NPPF sets out that development sites should deliver net gains for biodiversity. In this regard a full assessment of the appeal proposals has been undertaken using the latest Defra 3.0 biodiversity net gain assessment metric. This reports a net gain will arise of +8.17% with lowland bog, a 'very high distinctness' habitat of exceptional biodiversity value, coded into the metric. Examination of the metric however finds that the value of the desirability of the re-creation of this habitat type is not reflected in the biodiversity unit value assigned to

it in the metric, which is due to the 'very high' difficultly of creation negative multiplier which is included. However, a review of the site specific circumstances, including the expertise with the team and local area in lowland bog re-creation, finds that in this instance, there is elevated confidence in the deliverability of this habitat type. As such I consider professional judgement should be applied to adjust the metric. The use of a proxy is proposed based on the alternative habitat choice that would likely be selected in the absence of the highly ecologically desirable and strongly ecologically preferential lowland bog re-creation proposal. The re-run of the metric using the proxy results in an adjusted habitat biodiversity net gain value of +31.7%. When adjusted to account for the HS2 proposals this is updated to a net gain of +28.9% for habitats while net gains are also recorded for lines of trees of +39.3% and river units of +10.28%.

7.1.14 I have carried out a review of the consultation responses received and I note that no objections are registered from Natural England, Environment Agency, Greater Manchester Ecology Unit or Council Officers. Comments have been received from third parties which relate to a range of ecological points, all of which have been reviewed as part of the EIA process such that these are fully addressed.

7.1.15 In conclusion, I consider the appeal proposals will fully safeguard on-site biodiversity through the use of appropriate mitigation and compensation measures. Moreover, a significant opportunity is available to re-create a very high distinctiveness, high value habitat type in the form of lowland raised bog like habitat which will directly further the aims of the Great Manchester Wetlands Nature Improvement Area (NIA) as part of which *"opportunities should be taken to restore degraded bogs wherever possible"*. This will result in a significant net gain for biodiversity ensuring that the appeal proposals are fully policy compliant as recognised by the lack of objection from the specialist ecological consultees and absence of any reason for refusal on ecology (or any other grounds) from the Council. Accordingly, it is my professional view that there is no ecological reason by which to refuse the appeal scheme.