Heatons
Planning Environment Design

APPEAL BY BOWBRIDGE HOMES (NANPANTAN) LIMITED

LAND OFF LECONFIELD ROAD, NANPANTAN, LOUHBOROUGH

IN RELATION TO THE REFUSAL OF PLANNING PERMISSION BY CHARNWOOD BOROUGH COUNCIL REFERENCE P/20/2199/2
OUTLINE PLANNING APPLICATION FOR RESIDENTIAL DEVELOPMENT WITH ASSOCIATED INFRASTRUCTURE FOR UP TO 30 DWELLINGS, INCLUDING DETAIL OF ASSOCIATED POINT OF ACCESS. ALL OTHER MATTERS (LANDSCAPING, SCALE, LAYOUT AND APPERANCE) RESERVED

Proof of Evidence: Ms. Justine Walsh BSc

Acting on behalf of Charnwood Borough Council

Planning Inspectorate Reference: APP/X2410/W/22/3304644

Local Planning Authority Reference: P/20/2199/2

February 2023

Contents Page

1 QUALIFICATIONS AND EXPERIENCE

1.1 I am Justine Walsh, Director of Ecology at Heaton Planning Limited (Heatons). Heatons are a planning, environment, and design consultancy, with an experienced team of planners, landscape architects and ecologists.

1.2 I have over 20 years' experience within the Biodiversity, Ecology and Habitat Management sectors having worked with in both the private and public sector. I have vast experience in determining the ecological impacts of development, preparation and input into policies and Supplementary Planning Documents, habitat management, biodiversity net gain and the delivery, monitoring and review of biodiversity strategies. I hold a Batchelor of Science degree from Aberystwyth University.

1.3 I was instructed by Charnwood Borough Council in January 2023 to represent the local planning authority at the Inquiry.

1.4 The evidence which I have provided for this appeal is true, to the best of my knowledge. I confirm that the opinions given are my true and professional opinion.

2 SCOPE OF MY EVIDENCE

2.1 My evidence considers the reason for refusal two – The council consider the proposed development would result in significant adverse biodiversity impacts that would be contrary to the provisions of Core Policy CS13 (CD.6.1) and National Planning Policy Framework paragraphs 174 and 180 (CD.6.4).

2.2 My proof expands upon and provides the detail behind the outstanding ecological issues raised within the council's Statement of Case evidence.

2.3 My Proof of Evidence is structured as follows:

Section 3	National legislation and Policy relevant to the appeal
Section 4	Loss of priority (semi natural) habitat
Section 5	Adverse impacts upon irreplaceable habitat
Section 6	Inconsistencies and errors in ecological assessment
Section 7	Impacts upon protected species
Section 8	Conclusion

3 NATIONAL LEGISLATION AND POLICY RELEVANT TO THE APPEAL

3.1 This section provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England. The reader should refer to the original legislation for the definitive interpretation.

3.2 Legislation and policy referred to within CD.4.2.3 and CD.5.3.1 detail information regarding a number of different Acts and Regulations deemed relevant to this appeal.

3.3 In addition to those detailed above, the Environment Improvement Plan 2023 is also considered to be relevant to this appeal. HM Government recently published the Environmental Improvement Plan 2023 which recognises the importance of ancient woodland with targets and commitments being provided in Chapter 3. Managing our woodland for biodiversity, climate, and sustainable forestry. The government propose they will:

- Continue to support the creation of high-quality native broadleaf and mixed woodlands.
- Implement our Keepers of Time Policy to protect and improve our ancient and native woodland and ancient and veteran trees and the valuable habitat they provide for future generations.
- Support work on the ground to improve the condition of ancient semi natural woodland and to restore plantations on ancient woodland sites (PAWS) while making sure they continue to provide owners with income. In support of this, Forestry England will continue to deliver its commitment to restore all 42,814 hectares of its PAWS.
- Consult on new protections in the planning system to recognise the high ecological and societal value of ‘Long Established Woodland’ (woodlands that have been present since at least 1893).
- Review the National Planning Policy Framework (NPPF) (CD.6.4) to ensure that it is being implemented correctly for ancient and veteran trees and ancient woodland and consult on wording in the NPPF at a future date to ensure the strongest protection for these habitats.
- Introduce a new duty on local planning authorities to consult the Secretary of State for Levelling Up, Housing and Communities before granting permission for development proposals that will affect our ancient woodlands.

- Further develop our forestry proposals aimed at increasing the planting of new woodland and preserving the nation's forests for biodiversity.

4 LOSS OF PRIORITY (SEMI NATURAL) HABITAT

Misidentification of the Current Extent of Acid Grassland

4.1 The presence of acid grassland on the site has not been fully considered within the appellant's proposals and the total extent of this local priority habitat (CD.5.3.3) is materially underrepresented within several ecological reports provided to the determining authority.

4.2 The council's ecologist previously demonstrated that there is evidence of acid grassland indicators in the centre of the site, specifically Sheeps sorrel *Rumex acetosella* and Common Bent *Agrostis capillaris.* Additionally, Heatons conducted a site visit in February 2023 and confirmed presence of acid grassland indicator species within the centre of the site, these being Heath Bedstraw *Galium saxatile*, Sheeps sorrel *Rumex acetosella* and Common Bent *Agrostis capillaris*[1].

4.3 The presence of acid soils across the site is confirmed by appellant's submitted Archaeological Desk-Based Assessment (see CD.2.26) which notes in section 3.2:

'*The Cranfield Soil and Agrifood Institute identifies the soils of the majority of the study site as slightly acid loamy and clayey soils with impeded drainage (Soilscape 8). The soils along the western site boundary are described as slowly permeable seasonally wet acid loamy and clayey soils."*

4.4 Despite their presence in the grasslands within the development boundary neither species was identified in the phase one habitat survey undertaken by the appellant (CD.4.2.3). This casts doubt upon the robustness of the appellant's submitted ecological report, both the manner in which the vegetative survey was conducted and the conclusion which can be drawn for its results (regarding onsite habitat classification).

4.5 The misidentification of the current extent of acid grassland on site is carried forward into the applicants submitted quantitative assessment of the development impacts (CD.4.2.3). This under representation of the extent of acid grassland onsite has the material effect of:

- Significantly reducing the sites current baseline biodiversity value, and,
- Significantly under reporting the extent of biodiversity impacts that would likely occur should the scheme be approved.

[1] See Appendix 1, Site Photos

Legislative and Policy Context of Acid Grassland

4.6 Page 6 of the Leicester, Leicestershire and Rutland Biodiversity Action Plan 2016- 2026 (CD.5.3.3) states that the acid grassland habitat (there defined as Heath Grassland) is noted as having partial equivalence to the UK BAP habitat, stating:

'The local heath grassland is a mix of dry acid grassland, wet acid grassland and acid grassland (wet or dry) with scattered ericaceous shrubs. True heathland with vegetation dominated by ericaceous shrubs is virtually nonexistent in Leicestershire and Rutland - this probably reflects the historic situation."

4.7 Page 108, Appendix 3, of the Leicester, Leicestershire and Rutland Biodiversity Action Plan 2016- 2026 (CD.5.3.3) further states:

'Also included are acid grasslands on siliceous soils with areas of bare soil and rock, characterised by the presence of many annuals..." and that,

'Some 300ha of land with acid or heath grassland are designated as Wildlife Sites, usually in association with other habitats such as woodland, scrub and neutral grassland. A lot of grassland is transitional in nature between acid and neutral grassland, and the amount of true heath-grassland designated as LWS is probably closer to 100ha.'

4.8 Lowland Dry Acid Grassland is identified as a habitat of principal importance in England and is included on the list of priority habitats and species for England (i.e., the Section 41 habitats and species list). This list forms part of material considerations which public bodies must weigh when discharging their 'biodiversity duty '; to be aware of biodiversity conservation in all their decision making.

4.9 As such, it is considered reasonable to afford the proposed developments impacts upon acid grass/heath grassland with the same weighting as would be applied to the destruction of a habitat of principal importance for conserving and enhancing biodiversity, as detailed within Section 41 of the Natural Environment and Rural Communities Act 2006 (as amended) (CD.6.12).

4.10 Policy CS13 of the Charnwood Core Strategy 2011-2028 (CD.6.1) states the council will conserve and enhance our natural environment by:

'…*Supporting development that protect biodiversity and geodiversity and those that enhance, restore or re-create biodiversity. We will expect development proposals to consider and take account of the impacts on biodiversity and geodiversity, particularly with regard to:*

- *Sites of Special Scientific Interest*
- *Local Wildlife Sites*
- *Regionally Important Geological Sites*
- *UK and Local Biodiversity Action Plans* ***priority habitats*** *and species*
- *protected species; and*
- *ecological networks*

We will only support development that results in the loss of ecological or geological features in exceptional circumstances where the benefit of development clearly outweighs the impact on ecology and geodiversity…

4.11 Additionally, policy EV6 of the emerging Charnwood Local Plan 2021-2038 (CD.6.3) also states the council will conserve, restore and enhance our natural environment by:

'we will ensure that biodiversity, ecological networks and geodiversity interests are protected, restored, enhanced and resilient. We will do this by seeking 10% biodiversity net gain and supporting development that:

- *Protects and enhances national and local priority habitats and species;*
- *Protects and enhances irreplaceable habitats including trees, veteran trees and ancient woodland;*
- *Protects and enhances biodiversity networks, including strategically important links in the wildlife network between out most valuable habitats;*
- *Supports nature recovery particularly in areas which have protected species and priority habitats;*
- *Protects features of geodiversity value and enhances their interpretation;*
- *Ensures biodiversity and geodiversity are maintained during construction; and*
- *Improves the water quality of any water body as required by the Water Framework Directive.*

Development proposals should be accompanied by an ecological surveys including a Biodiversity Impact Assessment and demonstrate how they have been designed to minimise ecological impact and provide a 10% net gain on site in the first instance or through biodiversity offsetting, where appropriate.'

4.12 As the Lowland Dry Acid Grassland is a priority habitat which will be impacted by the proposed development it is clear, under policy CS13 and EV6 (CD.6.1)(CD.6.3) that the appellant also needs to demonstrate exceptional circumstances to allow the loss of this habitat to occur.

4.13 At this time, no exceptional circumstances have been detailed.

4.14 Due to this negative weighting should be applied at determination of the appeal.

Misrepresentation of Broadleaved Woodland

4.15 It is considered that a portion of the area marked as 'scrub' along the western boundary of the site (CD.4.2.3) has been incorrectly identified by the appellant, and instead constitutes part of the 'woodland edge' of Burleigh Wood; a broadleaved semi natural woodland.

4.16 On page 38 of the JNCC's Handbook for Phase 1 Habitat Survey (CD.5.3.7), where the vegetative communities used to identify areas of semi natural woodland is described the following is noted:

'The following should, amongst others, be included in the semi natural [woodland] category"… "stands of young trees or coppice regrowth, even when less than 5 m [in height]"

4.17 Regarding the classification of scrubland, page 39 of the JNCC Handbook for Phase 1 Habitat Survey (CD.5.3.7) states that the follow vegetation communities **should not** be included in this category:

'Stands of young trees or stump regrowth less than 5 m high, where these represent more than 50% of the immature canopy cover"

4.18 Given the classification guidance within the JNCC handbook it is clear that the vegetation within a portion of the western area of the development (both in type and age) represents natural regeneration of trees and woodland understory species which forms part of the Burleigh woodland habitat parcel. It is evident from the site visit conducted by Heatons (Feb 2023) that this portion of the Burleigh wood has been present within the site boundary for a significant period of time, due to both the maturity of the trees, natural regeneration/colonisation and the presence of ancient woodland indicator species within some areas of

ground flora (i.e., bluebells *Hyacinthoides non-scripta*).(See appendix 1, Site Photos).

4.19 The area of broadleaved semi natural woodland within the site boundary is directly connected to Burleigh Wood and could only be viewed as being a continuation of the same habitat.

4.20 The presence of Burleigh Wood within the development boundary is recognised by Loughborough University (the majority landowner of the woodland parcel) within their 'Woodland Management Plan for Burleigh Wood, Holywell Wood and Associated Woodland for the years 2018 to 2023' (CD.2.30). Figure 2 of the Management Plan clearly depicts the southwestern area along the boundary of the development site as being part of Burleigh Wood.

4.21 In concurrence with Loughborough University, Natural England also deems that Burleigh wood extends within the development sites boundary.

4.22 The Living England Habitat Layer provided by Natural England and DEFRA via the Magic Map application depicts the area within the development site, running along its south western boundary, as consisting of the broad habitat type of 'Broadleaved, Mixed and Yew Woodland'. The Living England Habitat Layer provides data to help inform environmental policy decision making and national habitat extent and connectivity assessments for targeting nature recovery.

Appellant's recognition of Broadleaved Woodland

4.23 Several of the ecological reports submitted by the appellant state both that a woodland is present on site and recognise its ecological value (in terms of biodiversity and providing foraging habitat for protected species).

4.24 Page 39 of the LI-EcIA (CD.4.2.3) contains a completed Biodiversity Metric habitat condition assessment for an onsite area of '*Woodland and forest – Lowland mixed deciduous woodland'*. This condition assessment cannot be used to determine the condition of scrubland or other, non-woodland, habitats; it is only used if woodland has been identified within a survey area (here being the proposed development site).

4.25 The appellant further recognises the presence of the woodland within the development boundary in their 22nd October 2021 rebuttal letter from RammSanderson '*response to Julian Jones and Charnwood Borough Council'* (CD.2.20). Within the section titled '*Biological impact Assessment (BIA)'* the following is stated:

'..The woodland habitat on site was assessed and found to be of moderate condition.'

4.26 Further recognition by the appellant of presence of the area of woodland on site is provided within page 10 of their submitted Construction and Ecological Management Plan (CEMP) (CD.2.18) which notes*:*

'The site was considered to offer low-moderate quality foraging and commuting habitat for bats due to ***presence of*** *scattered trees,* ***broadleaved woodland*** *and hedgerows as well as being* ***connected to the surrounding environment via woodland extending westwards from the site boundary****.'*

4.27 The appellant refers to the woodland presence onsite again on Page 19 of the LI-EcIA (CD.4.2.3) stating:

'The ***woodland edge on the sites western boundary*** *is therefore likely to have higher suitability for foraging and commuting bats.'*

Legislative and Policy Context of Broadleaved Woodland

4.28 Broadleaved semi natural woodland is identified as a habitat of principal importance in England and is included on the list of priority habitats and species for England (i.e., the Section 41 habitats and species list (CD.5.3.8)). This list forms part of material considerations which public bodies must weigh when discharging their 'biodiversity duty(CD.6.12)'; to be aware of biodiversity conservation in all their decision making.

4.29 As such, the determining authority should afford great weighting to the developments likely effects (both direct and indirect) upon the areas of broadleaved semi natural woodland onsite. These effects have not been fully determined or appropriately assessed by the appellant; preventing the authority from fully discharging its responsibilities under Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) (CD.6.12).

4.30 As broadleaved woodland is a priority habitat which will be impacted by the proposed development it is clear, under policy CS13 of the Charnwood Core Strategy (CD.6.1) and under policy EV6 of the emerging Charnwood Local Plan (CD.6.3), that the appellant also needs to demonstrate exceptional circumstances to allow the loss of this habitat to occur.

4.31 At this time, no exceptional circumstances have been detailed.

4.32 Due to this negative weighting should be applied at determination of the appeal.

5 ADVERSE IMPACTS UPON IRREPLACEABLE HABITAT

Burleigh Wood, Ancient Woodland and Local Wildlife Site

5.1 The Burleigh Wood Ancient Woodland and Local Wildlife Site designation commences immediately west of the development site's boundary.

5.2 Ancient woodland is acknowledged as an irreplaceable habitat, in that once lost or degraded they cannot be re-created within several human lifespans. The uniquely high ecological and conservational value of ancient woodland is derived from the longevity of a climax habitat type (Semi natural broadleaved woodland) within the same geographic span over a long temporal period.

Assessment of Irreplaceable Habitat Using Relevant Policy

NPPF 2021

5.3 Paragraph 180, section 'c' of the NPPF 2021 (CD.6.4) provides clear guidance to determining authorities on how to weight a developments impacts (direct or indirect) upon an irreplaceable habitat when reaching a planning determination, stating:

'When determining planning applications, local planning authorities should apply the following principles: …'

'…c) 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*** *and a suitable compensation strategy exists…'*

5.4 The exceptional reasons where it is acceptable to allow a determining authority to permit the loss or degradation of an ancient woodland are detailed in footnote 63 of the NPPF 2021:

'For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.'

5.5 The appellant's assessment does not provide sufficient information for the determining authority to determine the developments likely scale of impact to Burleigh Wood Ancient Woodland in accordance with paragraph 180 of NPPF 2021.

Planning Practice Guidance

5.6 Paragraph 33 of Planning Practice Guidance (PPG) 2019 (CD.6.5) further elaborates upon how determining authorities should assess the potential impact of development on ancient woodland stating:

'Local planning authorities need to consider both the direct and indirect impacts on ancient woodland and ancient or veteran trees when assessing development proposals and the scope for avoiding or mitigating adverse impacts. Their existing condition is not something that ought to affect the local planning authority's consideration of such proposals (and it should be borne in mind that woodland condition can usually be improved with good management).'

*'When assessing whether '**wholly exceptional reasons'** exist that may **justify a loss or deterioration of ancient woodland**, ancient trees or veteran trees, it will not be appropriate to take any compensation measures into account. These should be considered only once the existence of 'wholly exceptional circumstances' has been ascertained.'*

5.7 The appellant's assessment does not provide sufficient information for the determining authority to determine the developments likely scale of impact to Burleigh Wood Ancient Woodland in accordance with Paragraph 33 of Planning Practice Guidance (PPG) 2019 (CD.6.5).

Forestry England and Natural England Standing Advice for Ancient Woodlands

5.8 Paragraph 33 of the 2019 PPG (CD.6.5) also highlights the need for a determining authority to take into account the 'Forestry England and Natural England Standing Advice for Ancient Woodlands' (CD.5.3.1) as part of any planning decision where impacts may occur. This standing advice constitutes a material planning consideration.

5.9 The Standing Advice (CD.5.3.1) details that direct and indirect effects of the development should be considered for both the construction and operational phases.

5.10 The following direct effects of development are listed in the Standing Advice as causing the loss or deterioration of ancient woodland:

- *'Damaging or destroying all or part of them (including their soils, ground flora or fungi)*
- *Damaging roots and understorey (all the vegetation under the taller trees),*
- *Damaging or compacting soil,*

- *Damaging functional habitat connections, such as open habitats between the trees in wood pasture and parkland,*
- *Increasing levels of air and light pollution, noise and vibration,*
- *Changing the water table or drainage,*
- *Damaging archaeological features or heritage assets,*
- *Changing the woodland ecosystem by removing the woodland edge or thinning trees - causing greater wind damage and soil loss.'*

5.11 The following indirect effects of development are listed in the Standing Advice as causing the loss or deterioration of ancient woodland:

- *'Breaking up or destroying working connections between woodlands, or ancient trees or veteran trees - affecting protected species, such as bats or wood-decay insects,*
- *reducing the amount of semi natural habitats next to ancient woodland that provide important dispersal and feeding habitat for woodland species,*
- *reducing the resilience of the woodland or trees and making them more vulnerable to change,*
- *increasing the amount of dust, light, water, air and soil pollution,*
- *increasing disturbance to wildlife, such as noise from additional people and traffic,*
- *increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland or tree root protection areas,*
- *increasing damaging activities like fly-tipping and the impact of domestic pets,*
- *changing the landscape character area'*

5.12 The appellant's assessment of impact does not display any consideration of any of the possible affects (direct or indirect) listed as part of the Standing Advice.

2022 Assessment Guide

5.13 The Forestry England and Natural England Standing Advice (CD.5.3.1) recommends that determining authorities use their '2022 Assessment Guide' document to ensure that any planning decision made (where there is a potential direct or indirect impact upon ancient woodlands) can demonstrate its accordance with NPPF 2021.

5.14 The following statements and questions are taken from the Assessment Guide and represent both key issues for the authority to consider and areas on likely uncertainty where the appellant must provide robust information to allow for the determination of impacts:

- "*The size of ecological loss is not always the overriding factor. A small loss from a small woodland could be more significant locally and ecologically than loss from a larger woodland.*

- *Does the ancient woodland or ancient and veteran tree provide habitat connections for woodland plants, birds and animals?*

- *Isolated woodland and trees are likely to be more vulnerable to the effects of development than connected woodland and trees.*

- *Will there be a loss of adjacent semi natural habitats and existing buffers with the ancient woodland or ancient and veteran trees?*

- *An ancient woodland in a sparsely wooded area could be more vulnerable to the effects of development than ancient woodland in a more wooded area.*

- *Ancient woodland, ancient and veteran trees and adjacent semi natural habitats are important to species, such as: dormice, bats, rare insects, lichens and fungi.*

- *You may also need to assess the effect of noise and light pollution of the proposal on protected species.*

- *Have the relevant assessments been carried out?*

- *The effects of air and water pollution and hydrological changes can occur at significant distances away from the proposal site.*

- *A development proposal has the potential to cause damage from residents, visitors, domestic pets and new gardens. You should consider*

effects, such as: disturbance to wild birds and other protected species; predation and soil enrichment from domestic pets; trampling woodland flora and compacting soil around tree roots; fly tipping and vandalism

- *Does the landscaping scheme retain semi natural features, such as mature trees and hedgerows?*

- *Does the landscaping scheme include proposals for a buffer zone?"*

5.15 The appellant's assessment does not provide the level of detailed consideration of the likely impacts to Burleigh Wood Ancient Woodland to allow the determining authority to undertake and complete their Assessment Guide (as is recommended by Natural England and Forestry England Guidance).

Statutory Consultee Comments in relation to Burleigh Wood Ancient Woodland

5.16 On the 5th of January 2021, the Forestry Commission submitted comments to the local planning authority in relation to the proposed development (CD.5.3.9). The following advice in relation to the determination of the developments impacts on ancient woodland was provided:

'It will be up to the Local Authority to determine if there are any impacts on the Ancient Woodland using the Standing Advice as a guide https://www.gov.uk/guidance/ancient-woodlandand-veteran-trees-protection-surveys-licences this advice is a Material Consideration, also being aware that NPPF para 175 provides strong protection for Ancient Woodland as an irreplaceable habitat"

5.17 On the 8th March 2021 Natural England's submitted comments to the local planning authority in relation to the proposed development (CD.5.3.10). Among other considerations Natural England provides the following advice on determination of the developments impacts on ancient woodland:

'You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 [now paragraph 180] of the NPPF Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.'

5.18 The appellant's assessment of the impact of the development to Burleigh Wood Ancient Woodland falls short of the standing advice requirements specified by Natural England and the Forestry Commission in their submitted comments. Statutory and non-statutory consultees advice was not followed by the appellant with regards to fully determining the potential direct and indirect impacts on the ancient woodlands.

5.19 The total extent of the detailed assessment of impacts undertaken by the appellant is provided in section 5.2 of the LI EcIA (CD.4.2.3), this comprises of:

'…The adjacent woodland, Burleigh Wood on the western boundary, was identified on Magic as a Priority habitat, and was also listed as Ancient and Semi Natural Woodland. As such suitable protection measures during construction and following completion should be undertaken…'

5.20 The appellant's assessment does not provide relevant information on the developments likely impacts to Burleigh Wood Ancient Woodland, or else details any rationale as to why possible impacts have been discounted.

5.21 In line with the precautionary principle, as the determining authority is unable to be certain that the proposed development will not result in the deterioration of an irreplaceable habitat, guidance provided within the NPPF 2021 (CD.6.4), PPG 2019 (CD.6.5), Standing Advice on Ancient Woodlands (CD.5.3.1) and Ancient Woodland Assessment Guide (Appendix 2) all recommend that the appeal should be dismissed.

5.22 The following sections of this proof of evidence will detail: how the appellant fails repeatedly to recognise their likely impacts upon Burleigh Wood Ancient Woodland; where impacts were recognised they were then significantly underestimated; and that in several key areas no information is provided to allow the determining authority to undertake and complete their own robust assessment of the likely impacts of the development upon an irreplaceable habitat.

Loss of semi natural habitat adjacent to Burleigh Wood Ancient Woodland

5.23 It is clear from the illustrative layout (CD.1.5) and parameter plan (CD.1.6) that there will be direct impacts to the woodland edge of Burleigh wood. Whilst it appears that larger tree specimens and tree groups will be retained (CD.2.15a), the area identified by the appellant on the site's western boundary as dense continuous scrub is proposed for removal. As such during the development construction phase works (clearance of 'scrub' and new planting) will be conducted right up to the boundary of the ancient woodland designation. It is worth noting that the parameter plan states:

"15m development offset from Burleigh Wood. No earthworks permitted".

5.24 However, the parameter plan does not specify that site clearance works of vegetation are not permitted within 15m of the ancient woodland.

5.25 Although the LI-EcIA (CD.4.2.3) and Biodiversity Metric 3.1 (CD.4.2.3) both suggest that the development will result in no habitat impacts along the western boundary of the development site this is at odds with the parameter plan (CD.1.6) and illustrative layout (CD.1.5).

5.26 This inconsistency in the information submitted creates both doubt and uncertainly over the appellant's proposed actions adjacent to Burleigh Wood Ancient Woodland.

5.27 Given the information provided by the appellant (and in line with the precautionary principle) it should be viewed as highly likely that the proposals will lead to loss or reduction of the woodland edge of Burleigh Wood.

5.28 This woodland edge currently acts as a buffer to the Burleigh Wood Ancient Woodland. Its loss is likely to result in the deterioration of the ancient woodland.

5.29 The development site represents one of the last areas of semi natural habitat adjacent to ancient woodland and so it is highly likely to be of key importance for the dispersal and feeding habitat for woodland species. There is no manner in which the development can occur and a majority of this final portion of adjacent and supporting habitat will not be lost.

5.30 The impact of the loss of adjacent semi improved grassland (both acidic and neutral) and semi natural woodland can only be viewed as detrimental to the long-term condition of the ancient woodland reducing the resilience of the ancient woodland and making it increasingly vulnerable to further changes and environmental perturbation.

Inadequacy of proposed ancient woodland buffer

5.31 The appellant notes on page 22, section IV, of the LI-EcIA (CD.4.2.3) that:

"The site has been designed to maintain a buffer zone (greater than the 15m required) between residential housing and the woodland…'.

5.32 However, this is not specifically what the standing advice (CD.5.3.1) states. The standing advice recommends:

"For ancient woodlands, the proposal should have a buffer zone of at least 15 metres from the ***boundary of the woodland*** *to avoid root damage (known as*

the root protection area). Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone."

5.33 It is clear from the parameter plan (CD.1.6) that the buffer does not adhere with the standing advice. The proposed buffer identified on the parameter plan does not start from the boundary/edge of Burleigh Wood (as advised by the standing advice) but from the west most edge of the development boundary, which lies within the woodland (Appendix 1 – Site Photos). As previously noted, the woodland edge is considered to start within the appeal site.

5.34 The standing advice (CD.5.3.1) also does not state that 15 metres is the required buffer size, it is the minimum. It states that larger buffer zones should vary dependent on factors and effects. Based on this particular site, the standing advice would suggest the buffer should be larger due to the surrounding area being less densely wooded, close to residential areas and steeply sloped.

5.35 As all the possible impact pathways have not been considered by the appellant, it is impossible for them to recommend what the appropriate size of the buffer should be.

5.36 It should be noted that as the appellant's current recommendations for the location of the buffer commence within the woodland itself (i.e., the 'buffer zone' has been located based on ownership boundaries) it does not even provide the minimum 15m distance from the woodland edge.

5.37 Without prejudice against the council's current position (that insufficient information is available to determine the appropriate span of the buffer), a drawing has been prepared depicting the appropriate location of a 20m buffer, based on its correct commencement at the edge of Burleigh Wood (Drawing 2 and Drawing 3 for Appropriate Location of Buffer).

Underestimation of Indirect Impacts

<u>Recreational Impacts</u>

5.38 Impacts from recreation such as walking, dog walking and jogging have not been adequately considered as part of the proposals.

5.39 Increases in recreational activity can have many negative impacts on ancient woodlands including but not limited to trampling, compaction and erosion of the soil, loss of vegetation, nutrient enrichment, creation of permissive footpaths, reduced genetic diversity in flora and disturbance to protected and priority species.

5.40 The only references with regards to the impacts of recreation upon Burleigh Wood Ancient Woodland are included in section 5.2 of the LI-EcIA (CD.4.2.3) which notes:

"Measures, such as adequate fencing and public open space provision, should be taken to minimise recreational access from the development into the woodland. This development includes the addition of a low number of residential units into the area, again limiting the impact to designated sites within the locality. A detailed construction ecological management plan (CEMP) should be followed and measures taken to prevent direct public access from the site into the woodland."

5.41 A CEMP acts to mitigate the impact of the construction phase of a development upon ecological receptors. During the construction phase there are no residents and so no recreational impacts. It is improper and highly irregular to suggest that a CEMP could mitigate against recreational impacts.

5.42 Additionally, the CEMP submitted by the appellant (CD.2.18) contains no measures to protect the ancient woodland and Local Wildlife Site.

5.43 The LI-EcIA (CD.4.2.3) provides no assessment of the type, scope, and scale of likely recreational impacts of the development upon Burleigh Wood Ancient Woodland; instead, merely stating that impacts will be mitigated but then providing no further detail.

5.44 The appropriateness of any mitigation measures cannot be determined without first completing a detailed assessment of impacts. However, even without this assessment having been undertaken by the appellant, it is clear that the size of the open space provided within the development scheme will not be sufficient to reduce the likelihood of new residents accessing Burleigh Wood Ancient Woodland for the purposes of open-air recreation.

5.45 It can be displayed that there will likely be a net-increase in walk-in recreational activity (i.e., walking, jogging, dog walking) due to the proposed development schemes proximity to Burleigh Wood Ancient woodland. There has been no consideration of impact and avoidance/mitigation measures with the exception of the fencing and open space provision which is considered to be wholly inadequate.

5.46 The development is for up to 30 new dwellings. Assuming an average occupancy rate of 2.3 individuals per dwelling, this will result in a local population growth of 69 individuals. This figure can be seen as representing the total pool of individuals that net-recreation usage (walking, jogging, dog walking) of the ancient woodland, due to the proposed scheme, can be generated from.

5.47 The shortest route which residents could take until they reach the boundary of the ancient woodland (presuming the woodland is adequately fenced off) requires a minimum journey distance of 0.9km, resulting in a minimum 'round-trip' of 1.8km (See Drawing 4 for Routes to Burleigh Wood Ancient Woodland). As noted, this journey would only take new residents to the boundary of the ancient woodland, as such, for residents to enter the site (and so be considered to represent a net increase in recreational usage of the ancient woodland), a minimum walk length must be > 1.8 km.

5.48 At present no visitor survey of site usage could be located on Burleigh Wood ancient woodland. As such, alternative sources detailing site visitor usage within areas of semi natural habitat can be utilised to provide an understanding of how an ancient woodland, would likely be utilised by the public.

5.49 The 2018 Visitor Access Patterns on the Thames Basin Heaths SPA Survey (CD.5.3.11) and the 2018 Cannock Chase SAC Visitors Survey (CD.5.3.12), both provide reasonable evidence bases which depict the average norms of walking, dog walking and jogging activity within areas such as Burleigh Woods.

5.50 It is reasonable to assume that (on average) the new residents of the proposed development would not significantly differentiate in the average distance they are willing to walk, dog walk or jog, compared with members of the public arising from Staffordshire, Surrey, Hampshire and Berkshire who utilise the Thames Basin Heaths SPA and Cannock Chase SAC for those same activities. These averages can be found in table 5-1.

*Table **Error! No text of specified style in document.**-1: average walking, dog walking and jogging distances*

Site	**Average Walking Distance**	**Average Dog Walking Distance**	**Average Jogging Distance**
Cannock Chase SAC	2.4km	2.6km	3.8km
Thames Basin Heaths SPA	2.7km	2.8km	3.4km
Burleigh Wood Ancient Woodland	2.4-2.7km	2.6-2.8km	3.4-3.8km

5.51 With the development resulting in approximately 69 new individuals within a 1.8km walking distance (door to door) from the nearest formal entrance to

Burleigh wood it is highly plausible that the development will result in a net increase in frequent usage of the ancient wood for recreational activities (See Drawing 4 for Routes to Burleigh Wood Ancient Woodland).

5.52 Page 8, Section 5.0, of the Burleigh Wood Woodland Management Plan (CD.5.2.14) details that there is already evidence of unauthorised walkways being created around the perimeter of the ancient woodland and also identifies anti-social behaviour as a potential threat and constraint to achieving the ancient woodlands management objectives.

5.53 The likely effect of the development by this impact pathway on Burleigh Wood ancient woodland (including cumulatively with existing recreational usage) has not been determined by the appellant.

Impact of increased pet ownership on the woodland

5.54 Just as the development will bring new residents into the local area adjacent to the ancient wood, pet ownership can also be expected to increase in tandem.

5.55 Dogs may impact upon Burleigh Wood ancient woodland though both enrichment of soil through fouling and disturbance and injury of animal species (most notably small mammals and ground nesting birds).

5.56 Domestic cats are a major predator of small mammals and birds within the UK. The link between new developments and a local rise in cat numbers is well recognised. Predation of birds (especially ground nesting birds) is the primary reason underpinning the establishment of protective buffer-zones (usually 400m) around European sites (where such bird species are the qualifying feature) where-in no developments resulting in net dwellings is permitted.

5.57 Ancient woodland is a high value habitat for many protected and declining species of small mammals and birds (offering foraging, shelter and breeding opportunities). Growth in the local domestic cat population (as a result of the development) would likely result in additional predation and higher mortality rates among these species.

5.58 The likely effect of the development by this impact pathway on Burleigh Wood ancient woodland (including cumulatively with existing level of disturbance, soil enrichment and predation caused by existing local dog and cat populations) has not been determined by the appellant.

Noise impacts

5.59 The construction and operational phase of the development is likely to result in an increase in the level of noise adjacent to the ancient woodland which could result in disturbance to protected and priority species.

5.60 The likely effect of the development by this impact pathway on Burleigh Wood Ancient Woodland has not been determined by the appellant.

Hydrological impacts

5.61 A sustainable urban drainage scheme is proposed for the north-eastern corner of the site, yet no hydrology report has been submitted with regards to potential impacts on the ancient woodland.

5.62 It is unclear if the change in the site's ground levels and the incorporation of the drainage scheme will result in a hydrological impact on the ancient woodland, either by reducing the level of surface water-run-off entering the wood, or through alteration to horizontal groundwater flows.

5.63 The likely effect of the development by this impact pathway on Burleigh Wood Ancient Woodland has not been determined by the appellant.

Air pollution impacts

5.64 Due to the proximity of the western area of the development site to Burleigh Wood Ancient Woodland, there may be potential for dust emissions to impact these habitats during the construction phase and degrade their quality.

5.65 Dust, or particles, falling onto plants can physically smother the leaves affecting photosynthesis, respiration, transpiration and leaf temperature. Increased air pollution during the construction phase may also result in toxicity issues (caused by heavy metals particles) and potential changes in pH levels of soils resulting in the decline of certain vegetative species.

5.66 The likely effect of the development by this impact pathway on Burleigh Wood Ancient Woodland has not been determined by the appellant.

Conclusion Regarding Underestimation of Indirect Impacts

5.67 The documents submitted by the appellant have not appropriately assessed potential indirect impacts arising from the proposed scheme in relation to the adjacent ancient woodland. It is considered that a number of these indirect impacts could lead to the deterioration an irreplaceable habitat. The appellant's documents are not in accordance with Paragraph 180(c) of the NPPF (CD.6.4), PPG 2019 (CD.6.5), Policy CS 13 (CD.6.1) Policy EV6 (CD.6.3), Standing Advice on Ancient Woodlands (CD.5.3.1) and Ancient Woodland Assessment Guide

(Appendix 2) or Natural England Standing Advice on Ancient Woodland. It is considered that there are sufficient grounds for dismissal based on the impacts to ancient woodland not being assessed adequately. No wholly exceptional reasons for the development to occur in this location have been demonstrated. The developments ecological compensation scheme does not address any impacts to the ancient woodland.

5.68 Furthermore, the determining authority will be unable to discharge its biodiversity duty as defined under section 40 of the NERC Act 2006 (as amended) (CD.6.12).

6 INCONSISTENCIES AND ERRORS IN ECOLOGICAL ASSESSMENTS

Biodiversity Net Gain

6.1 This part of proof of evidence will focus on the fundamental flaws within the Biodiversity Metric 3.1 (CD.4.2.3) which has been submitted as part of the appeal.

6.2 The appellant's have conducted an updated metric utilising Natural England (NE) Biodiversity Metric 3.1. The NE Metric 3.1 was published in April 2022 and replaces previously published 3.0 and 2.0 Biodiversity Metrics. Natural England (CD.5.3.13) advise that:

"Biodiversity Metric 3.1 has been extensively tested. Natural England will be recommending to the Secretary of state that Biodiversity Metric 3.1 forms the basis of the statutory biodiversity metric used to underpin future mandatory biodiversity net gain as set out in the Environment Act 2021."

6.3 Once an existing habitat baseline is determined, the metric quantifies the likely biodiversity net gain/loss for the proposed scheme's delivery based upon its indicative layout and the restoration and ecological mitigation measures proposed. Metric 3.1 allows for the habitats on site (both current and future planned) to be described in terms of distinctiveness, condition and strategic significance.

6.4 Delay factors relating to the commencement of future habitat creation / restoration / enhancement can also be inputted as variables within the metric, as these can also have a material effect on predicted future net-biodiversity values on site.

6.5 In Section 4.5 of the LI-EcIA (CD.4.2.3) the appellant details that, by their calculation, the development will deliver a combined increase (both within the development and its connected biodiversity offset) of 3.89 Biodiversity Units (BU), a 46.9% net gain over the sites existing biodiversity habitat baseline.

6.6 Additionally, a detailed breakdown of the numerous inconsistencies and errors in the appellant's approach to completing their quantitative assessment of biodiversity impacts / gain is provided in Appendix 3.

6.7 A summary of the appellant's errors and their effects within the biodiversity metric is provided bellow:

- Habitat condition assessments for several baseline habitats have not been undertaken correctly; they do not adhere to the format required by

Natural England (CD.5.3.13) This has the effect of reducing the quantitative value of these habitat, reducing the total value of the site's biodiversity baseline.

- That several baseline habitats on site were of strategic significance was not inputted into the metric, despite the appellant recognising their significance and importance within the 'notes' section of the metric. This has the effect of not applying the appropriate multipliers to increase the value of these key habitats. This again works to reduce the total value of the site's biodiversity baseline.

- No delay factor was added into the metric when determining post development value of habitats onsite. This suggests that all new habitats onsite will be establish <1year after site clearance works have been completed. Given the seasonal restrictions on both site clearance work (i.e., outside of birdnesting season, September to February) and the establishment of suggested habitat types (Spring or Autumn) this seems highly unlikely. Not including any delay factor in the metric has the affect of increasing the post development biodiversity score.

6.8 To demonstrate to the determining authority the change in the output the Biodiversity Metric Assessment if the habitat conditions, strategic significance multiplier and delay factor were imputed correctly the appellant's metric was re-run with these changes (See appendix 4: Updated BNG Metric). It is considered that the baseline value of the development site is greater than suggested and the appellant's likely gain much smaller, resulting in a biodiversity loss of 11.73%.

6.9 No other part of the metric was altered, i.e., the habitat types on site and the extent to which they are present remains unchanged from those detailed in the appellant's Metric 3.1 (CD.4.2.3). This was done without prejudice against the belief that the appellant has also misidentified the presence and extent of key habitat within the development areas.

<u>Undeliverability of proposed biodiversity offset</u>

6.10 The Appellant proposes that onsite biodiversity losses can be offset via the creation of new habitats elsewhere within the borough.

6.11 Without prejudice against arguments already detailed within this proof of evidence (that post development will result in an 11.73% net loss to biodiversity value, inclusive of the biodiversity offset) it is worth considering if the appellant's proposed 'off-site' habitat creation is realistic and likely to be achieved (given the level of information made available to the determining authority at this time).

6.12 The appellant proposes to enhance an area of neutral grassland and also create new areas of scrubland and acid grassland upon an existing poor-semi improved (modified) neutral grassland.

6.13 Section 14.1.6 of the LI-EcIA (CD.4.2.3) provides information on the offsetting areas baseline conditions:

"This area of poor semi improved (Modified) grassland was dominated by perennial ryegrass with occasional creeping buttercup, dandelion and white clover. Signs of enrichment were present in the form of large variations of species and very low biodiversity…"

6.14 Further information regarding the likely levels of nutrients in the soils (i.e., nutrient-nitrogen and phosphates) is provided within section 7.1.2. of the LI-EcIA (CD.4.2.3) which states:

"The area that is designated for offsite offsetting within the BIA is currently sitting at poor condition due to previous enrichment of the site and regular management…"

6.15 However, clear guidance upon the creation of acidic grassland is provided in the Leicester, Leicestershire &Rutland BAP, (therein referred to as heath grassland). Page 26 of the BAP 2016 (CD.5.3.3) states:

"For heath grassland creation it is essential that the soil is acidic.

The soil fertility should be low. Ex arable land is often not suitable because of the high nutrient levels. Nutrient depletion and removal of competing weed species result in high establishment costs. On-going management (annual grazing) is necessary to maintain this habitat therefore sites should be at least 1 ha unless adjacent to existing Heath Grassland.'

6.16 Not only does the proposed creation of acid grassland not meet the criteria in respect of soil pH, soil nutrient levels etc., but the Leicester, Leicestershire &Rutland BAP also notes that acid grassland should be of at least 1 hectare unless they are adjacent to existing Heath Grassland. The Biodiversity Metric 3.1 submitted as part of the appeal (CD.4.2.3) demonstrates that the area of acid grassland proposed for creation is very small (0.0657ha) and will only be adjacent to high nutrient habitats, such as neutral grassland.

6.17 The appellant is not proposing to undertake any works to appropriately prepare the high nutrient non-acid soils to achieve the conditions which are to be expected for acid grassland to establish. Nor have they indicated at this time that they will seed any part of the offset area with an acidic grassland seed mix, with

current proposals being that all grassland areas will be seeded using neutral grassland mixes (N5 long-season meadow mix or N4 summer flower butterfly and bee meadow mixture (see 7.1.2 of LI-EcLA, CD.4.2.3).

Conclusion Regarding Inconsistencies and Errors within Ecological Assessments

6.18 It is highly unlikely that the appellant will be able to successfully establish and maintain any new acid grassland habitat based upon the methodology proposed.

6.19 It can be concluded that the development as currently proposed would result in a significant net loss to biodiversity and so is in conflict with the requirements of paragraphs 174 and 180 of the NPPF 2021 (CD.6.4) and as such the determining authority will be unable to approve the appeal at this time without being in accordance with the NPPF 2021 and also be unable to discharge its biodiversity duty as defined under section 40 of the NERC Act 2006 (as amended) (CD.6.12).

6.20 The development is not in accordance with Policy CS 13 of the Charnwood Core Strategy (CD.6.1):

'*We will only support development that results in the loss of ecological or geological features in exceptional circumstances where the benefit of development clearly outweighs the impact on ecology and geodiversity.*

Where there are impacts on biodiversity we will require adequate mitigation; or as a last resort, compensation which results in replacement provision that is of equal or greater value and potential than that which will be lost, and is likely to result in a net gain in biodiversity.'

6.21 Additionally, the development is not in accordance with Policy EV6 of the emerging Charnwood Local Plan (CD.6.3)

Development proposals should be accompanied by an ecological survey including a Biodiversity Impact Assessment and demonstrate how they have been designed to minimise ecological impact and provide 10% net gain on site in the first instance, or through biodiversity offsetting, where appropriate.'

6.22 Due to the proposals resulting in a significant net loss to biodiversity the scheme should be refused.

7 LIKELY IMPACTS UPON PROTECTED SPECIES (BADGERS AND BATS)

7.1 Heatons conducted a site visit in February 2023 and an active badger sett was noted on the site. The location of the active sett and appellant's likely impact upon badgers is covered within a separate confidential badger report (See Appendix 5: Badger Report).

7.2 As noted in Section 5 of this proof, semi natural broadleaved woodland, and ancient woodlands in particular are regarded as high-value feeding and roosting habitats for bats. The woodland edge is often a location of high levels of bat activity, being of great value for both commuting and foraging.

7.3 Although high quality commuting and foraging habitat was located within the development site no bat transect survey was undertaken by the appellant.

7.4 Despite such an assessment being deemed necessary (to determine current levels of bat activity) by the appellant's own Phase 1 Habitat Survey (CD.2.16), a bat transect survey was then not deemed necessary in the following EcIA's (CD.4.2.3).

7.5 Page 58, table 8.3 of The Bat Conservation Trusts (BTC), 2015, Good practice Survey Guidelines (CD.5.3.14) notes that, on sites with high suitability for bats, bat transect surveys should consist of two site visits a month between April - October.

7.6 Page 14, table 2.1 of The Bat Conservation Trusts (BTC), 2015, Good practice Survey Guidelines (CD.5.3.14) details that developments where the impacts on bat commuting and foraging are not considered could result in the following adverse effect to local populations:

- Modification of commuting or foraging habitats either physically or through disturbance (e.g. light spill/noise),
- Severance of commuting routes (fragmentation), and
- Loss of foraging habitats.

7.7 It is clear from the appellant's LI-EcIA (CD.4.2.3) and Parameter Plan (CD.2.5) that the development will impact on the woodland edge and so proposals are likely to impact on local bat populations.

7.8 These impacts have not been recognised or fully accessed by the appellant.

7.9 All bat species, their breeding sites and resting places are fully protected by law. As no further surveys have been undertaken to determine how bats may utilise the site, an impact assessment regarding bats cannot be undertaken.

7.10 Activities that may harm bats, relating to the development proposals include:

- Changing or removing bats foraging areas
- removing commuting habitats like hedgerows, watercourses of woodland
- changes in lighting levels outside roost entrances.

7.11 Therefore as the development proposal has the potential to result in harm to bats, it cannot be determined whether a breach in legislation is likely.

7.12 Badgers and their setts are protected by the Protection of Badgers Act 1992. As a full assessment has not been undertaken on site to determine the status and extent of badger activity on site, and impact assessment regarding badgers cannot be undertaken.

7.13 Activities that may harm badgers, relating the development proposals include:

- earthworks within 30m of an active badger sett
- clearance of scrub within 30m of an active badger sett
- removal of suitable foraging habitat
- increase in noise, additional lighting and vibration.

7.14 Therefore, as the development proposal is highly likely to result in harm to badgers, it is probable that there could be a breach in legislation.

8 CONCLUSIONS

8.1 This proof provides a thorough consideration of the ecological impacts of the proposed development. It has been clearly detailed that the development will result in the loss of priority habitat, adverse impacts upon irreplaceable habitat and that it is likely to impact upon protected species (Badgers and Bats) in a manner which could constitute a criminal offence.

8.2 Additionally, several substantial inconsistencies in the appellant's ecological evidence, and notable errors and oversites in their determination of their ecological impacts have been made apparent.

8.3 It is clear that the council's assessment of the site within the emerging local plan ecological evidence is correct. The site received a D grade, highlighting that development within this location is not ecologically sustainable and will result in a significant loss to biodiversity and indirect impacts upon irreplaceable habitat.

8.4 The development will also result in a loss of priority habitat, without providing any exceptional circumstances to allow this harm to occur, this is in direct conflict with Policy CS13 of the Council's Core Strategy (CD.6.1) and Policy EV6 of the Councils emerging Local Plan (CD.6.3).

8.5 The following Ecological Issues should be afforded negative weighting at the determination of the appeal:

- Loss of (semi natural) priority habitat.
- Not in accordance with Policy CS13 and EV6.
- Biodiversity Offset unlikely to deliver acid grassland creation.
- The mitigation hierarchy has not been adhered to (i.e. information, avoidance, mitigation, compensation, new benefits). Does not conform to paragraph 180 of NPPF 2021 (CD.6.4).

8.6 The following Ecological Issues are considered to be sufficient grounds for refusal of the appeal:

- Impacts to protected species – bats /badgers
- Impacts to ancient woodland not assessed adequately. High likelihood of deterioration of the Burleigh Wood Ancient Woodland (an irreplaceable habitat). No wholly exceptional reasons for the development to occur in this location have been demonstrated. The developments ecological

compensation scheme does not address any impacts to the ancient woodland.

- Significant Net loss to Biodiversity (does not allow determining authority to discharge their responsibilities under section 40 of NERC Act 20006 (as amended) (CD.6.12).

8.7 Due to these reasons, it is recommended that the appeal be refused.