



**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 APPEARANCE) RESERVED**

**Biodiversity Rebuttal: 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**

**March 2023**

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## 1 Rebuttal

### 1.1 Introduction

1.1.1 I have reviewed the Appellant's Proof of Evidence - Biodiversity in respect of the above Appeal (Land off Leconfield Road), dated February 2023 and provide my rebuttal below.

1.1.2 The rebuttal focuses on the following topics from the Appellant's Ecology Proof of Evidence.

- Charnwood Local Plan 2011 to 2028
- National Planning Policy Framework
- Natural England's Standing Advice on Ancient Woodland
- Planning History
- The Appeal Proposals
- Public Rights of Way
- Onsite Measures
- CBC Appeal Statement Commentary

### 1.2 Charnwood Local Plan 2011 to 2028

1.2.1 Paragraphs 4.1 to 4.5 of the Appellant's Proof of Evidence - Biodiversity state that the Appellant has complied with Policy CS13.

1.2.2 This statement is incorrect, with rational for its noncompliance previously detailed in Sections 4, 5, 6 and 8 of my Proof of Evidence.

1.2.3 Paragraph 4.5 of the Appellant's Proof of Evidence – Biodiversity additionally states:

*“...the Council will only support development that results in the loss of ecological features in exceptional circumstances... my view is that the appeal scheme complies with the policy...”*

1.2.4 However, Charnwood Borough Council's Biodiversity Planning Guidance (CD.5.3.2) adopted in May 2022, provides interpretation on Policy CS13. Page 4 of the guidance notes:

*“...The policy only allows for new development that results in the loss of ecological or geological features in exceptional circumstances. Namely, where the benefit of development clearly outweighs the impact”.*

- 1.2.5 The Appellant's have not demonstrated exceptional circumstances. The Appeal proposals do not secure the protection of biodiversity. There will be a significant net loss to biodiversity, deterioration to an irreplaceable habitat, impacts to protected species and direct loss of priority habitats.

### **1.3 National Planning Policy Framework**

- 1.3.1 Paragraphs 5.1 to 5.9 of the Appellant's Proof of Evidence - Biodiversity detail how the Appellant states they have complied with the NPPF 2021.
- 1.3.2 This statement is incorrect, with rational for its noncompliance with the NPPF 2021 previously detailed in Sections 5, 6 and 8 of my Proof of Evidence.

### **1.4 Natural England's Standing Advice on Ancient Woodland**

- 1.4.1 As regards adherence to Natural England's and the Forestry Commissions Standing Advice on Ancient Woodland Paragraph, in 10.3 of the Appellant's Proof of Evidence - Biodiversity states:

*"It is my view that the Appeal Proposals and landscaping details provide for the buffer zone satisfy these conditions. The buffer zone is roughly wedge shaped, with a narrowest width of 20.35m at the northern end, broadening to a maximum of 45.19m at the southern end."*

- 1.4.2 This is a misidentification by the Appellant of the extent of the buffer zone which would be secured should the development be approved. The measurements referred to in the paragraph 10.3 are taken from the Landscaping and Illustrative Layout (CD.2.4). This is indicative only and will not be secured.
- 1.4.3 The Appeal Proposals are based on the submitted Parameter Plan (CD.1.6), which demonstrates that there will be a 20-metre buffer, but earthworks will be permitted up to 15 m of Burleigh Wood Ancient woodland designation boundary.
- 1.4.4 The parameter plan (CD.1.6) does not specify that site clearance works of vegetation are not permitted within 15m of the ancient woodland. Furthermore, 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.

1.4.5 Further detailed information is provided in Section 5 of my Proof of Evidence for Ecology as to why impacts to ancient woodland have not been fully considered.

## 1.5 Planning History

1.5.1 Paragraph 11.1 of the Appellant's Proof of Evidence - Biodiversity outlines the ecological assessments of the site and subsequent communications relating to this Reason for Refusal in chronological order. The information is provided in a table.

1.5.2 The final line of the table details that the RammSanderson Statement of Case - Biodiversity dated September 2022 has now superseded by this proof CD.4.2.3.

## 1.6 The Appeal Proposals

1.6.1 Paragraph 12.4 of the of the Appellant's Proof of Evidence - Biodiversity details that:

1.6.2 *"...I was commissioned to update the ecological assessments and have provided an updated Ecological Appraisal, Biodiversity Impact Assessment Metric and a Biodiversity Net Gain strategy (included within the updated Ecological Impact Assessment appended to this Proof), which involves an off-site biodiversity offsetting scheme..."*

1.6.3 The Appellant is submitting new evidence at this late stage in the appeal process.

1.6.4 This fresh and substantial evidence necessitates extra preparatory work that would not otherwise have arisen.

1.6.5 What follows here is my response to the Appellant's new evidence.

1.6.6 Paragraph 12.5 of the Appellant's Proof of Evidence - Biodiversity details that the Appeal Site and Offsetting Site baseline value remains unaltered and has been transposed into the most up to date metric (3.1).

1.6.7 However, it is clear when comparing the two metrics in detail it is apparent that there are that there are many differences between the two and that only

the final output (i.e., the percentage of net-gain) remains similar (please see table 1.1).

Table 1: Differences between Appellant's biodiversity metric 3.1 presented at SoC and PoE

	Statement of Case Metric	Proof of Evidence Metric
<b>On-site Baseline</b>		
Habitat Units	8.3	9.55
Hedgerow Units	0.59	0.59
<b>On Site post - Intervention</b>		
Habitat Units	6.76	7.75
Hedgerow Units	1.28	1.28
<b>On-site net % change</b>		
Habitat Units	-18.57%	-18.87%
Hedgerow Units	117.62%	117.62%
<b>Off-site baseline</b>		
Habitat Units	2.59	2.79
Hedgerow Units	0	0
<b>Off-site post - intervention</b>		
Habitat Units	8.02	9.23
Hedgerow Units	0	0
<b>Total Net Unit Change</b>		
Habitat Units	3.89	4.45
Hedgerow Units	0.69	0.68
<b>Total on-site net % change plus off- site surplus</b>		
Habitat Units	46.90%	46.60%
Hedgerow Units	117.62%	117.62%

1.6.8 In the newly submitted biodiversity metric 3.1 (CD.4.2.6b) the biodiversity baseline of the Appeal Site has increased, and the onsite Habitat unit's percentage has decreased. This suggests that the onsite biodiversity impacts are more severe than previously presented by the Appellant. This is due to

their recognition of the strategic importance of the baseline habitats present on site.

1.6.9 The Appellant's have increased the strategic significance multiplier in the metric to 'high strategic significance'.

1.6.10 Natural England (CD.5.3.20) advises that:

*“Strategic significance [of habitats in the metric] is determined by published local strategies and objectives. Local authorities decide which habitats and lands to include, to account for local priorities when targeting biodiversity and nature improvement.*

1.6.11 Natural England further advises:

*“Strategic significance relates to the spatial location of a habitat parcel and works at a landscape scale. It gives additional biodiversity unit value to habitats that have been identified as habitats of strategic importance to that local area.*

*Strategic significance utilises published local strategies and objectives to identify local priorities for targeting biodiversity and nature improvement, such as Local Nature Recovery Strategies, local biodiversity plans, National Character Areas 30 objectives, Local Planning Authority Local Ecological Networks, Shoreline Management Plans, estuary strategies and green infrastructure strategies.*

*Strategic significance will be high if the habitat location is identified in local plans, strategies or policies...”*

1.6.12 Within the notes section of the newly submitted biodiversity metric 3.1 (CD.4.2.6b) the appellant states the follow for some habitats on site, such as the area of lowland acid grassland which they recognise:

*“**Strategic significance** of all natural habitats on site is **‘formally identified in local strategy’** as both the onsite and offsite areas are located in Charnwood Forest Regional Park and its countryside policy, and **the onsite area is adjacent to the local wildlife site Burleigh wood** and offset area is adjacent to local wildlife site Nanpantan Reservoir.”*

1.6.13 The Appellant's newly submitted evidence now recognises the importance of the sites adjacent semi-natural habitats to the irreplaceable ancient woodland.



1.6.14 As can also be noted from the table, the quoted total net gain percentage is different. The original metric (CD.4.2.3) determined a 46.9% net gain whereas the revised metric (CD.4.2.6b) determines 46.6% net gain. The Appellant's proof of evidence (CD.4.2.6) fails to recognise and rectify this discrepancy.

1.6.15 However, I consider that this alteration to the Appellant's evidence supports the position raised in section 6, (paragraphs 6.1 to 6.22) of my Ecology Proof of Evidence (Inconsistencies and Errors in Ecological Assessments).

1.6.16 Particularly in section 6.7 of my proof I noted that several baseline habitats on site were of strategic significance which was not inputted into the metric correctly.

1.6.17 Although the Appellant has attempted to amend this mistake by submitting a new and altered metric, all other inconsistencies highlighted in my proof of evidence remain and the scheme should be viewed as providing a likely biodiversity net loss despite the provision of a biodiversity offsetting scheme.

## 1.7 Public Rights of Way

1.7.1 Paragraph 13.1 of the Appellant's Proof of Evidence - Biodiversity states that:

*"The Wood includes no public rights of way within it - any routes instead being permissive, with the public having no legal right to use them."*

1.7.2 However, the Appellant has failed to consider Loughborough Universities 'Woodland Management Plan for Burleigh Wood, Holywell Wood and Associated Woodland for the years 2018 to 2023' (CD.5.2.14).

1.7.3 The long-term vision of the University's Management Plan (CD 5.2.14) is:

*"To maximise the biodiversity value of all the woodlands, with controlled public access to protect this over-arching objective."*

1.7.4 And:

*"Local residents continue to enjoy walking through Burleigh Wood".*

1.7.5 The Management Plan further notes:

*” The wood is used frequently by local residents, with the circular path and central cross path providing two circular walks, one approximately 0.75km and the other just over 1km. A series of boardwalks and footbridges cross small ditches and damp areas”*

1.7.6 Paragraph 13.3 of the Appellant’s Ecology Proof of Evidence (CD.4.2.6) also states:

*“The appeal proposals, including the buffer zone, will help control public access into Burleigh Wood, as part of the requirements to mitigate trampling effects on the Ancient Woodland trees’ root protection zones”.*

1.7.7 As detailed in section 5.38 to 5.53 of our Ecology Proof of Evidence, the recreational impacts on Burleigh Wood have not been adequately assessed and impacts which could lead to the deterioration of the woodland are likely.

## **1.8 Onsite Measures**

1.8.1 Paragraph 14.1 of the Appellant’s Proof of Evidence – Biodiversity (CD.4.2.6) states:

*“An informal play space is proposed within the buffer, and this provision is not incompatible, as per the NE Standing Advice on buffers to ancient woodland, provided the effects of trampling can be avoided. A natural play area is provided within the landscaping area along the western boundary, but outside of the buffer to the Ancient Woodland, starting at 20m from the woodland edge.”*

1.8.2 I disagree with this notion. Informal play could encourage anti-social behaviour and recreational impacts to the ancient woodland. There has been no assessment by the Appellant of these likely impacts and how they could lead to the deterioration of the ancient woodland.

## **1.9 CBC Appeal Statement Commentary**

1.9.1 Paragraph 17.2 (i) of the Appellant’s Proof of Evidence – Biodiversity (CD.4.2.6) states:

*“The offsetting land is adjacent, beyond Woodhouse Lane to woodland to the west...The Appellant is compensating for the impacts to the loss of grassland via this offsetting solution.”*

1.9.2 It is made clear by the Appellant that no compensation will be provided for their indirect impacts upon the adjacent ancient woodland.

1.9.3 Paragraph 17.2 (i) of the Appellant's Proof of Evidence- Biodiversity (CD.4.2.6) also states:

*"... There is no direct habitat loss to the woodland, and the grassland adjacent is not cited in the LWS criteria for being a supporting habitat..."*

1.9.4 I strongly disagree that the development will not result in any loss of woodland. The woodland edge of Burleigh woodland clearly extends onto the development site (see Sections 4.15 - 4.32 and 5.23 – 5.30 of my proof of evidence). The Appellant states that the adjacent grasslands are not locally sited as supporting habitats. However, local citation is irrelevant; these habitats are recognised in Natural England's and the Forestry Commission's national Standing Advice on Ancient Woodlands as being supporting habitats.

1.9.5 In Para 17.2 (ii) the Appellant's states that:

*"...the receptor site is 300m away from the appeal site: they share similar traits in elevation, sloping topography, and soil conditions are identical, according to the UK Soils Observatory..."*

1.9.6 In the absence of soil testing, it is impossible for the Appellant to make the statement that soil conditions on both sites are identical. The free to use UKSO map (the source of the appellants information) contains a Soilscape profile for England and Wales. However, this is derived from only c.5,400 soil samples across the entire geographic span of England and Wales. The soil profiles from the UKSO are (mostly) derived via modelling, with the lowest granularity of soil pH areas unable to be reduced below a 1km<sup>2</sup> area.

1.9.7 Additionally, Para 17.2 (ii) in the Appellant's statement of case (CD.4.2.6) is contradictory with Section 14.1.6 and Section 7.1.2. of the LI-EcIA (CD.4.2.3) which state that the offsite area:

*"...dominated by perennial ryegrass with occasional creeping buttercup, dandelion and white clover [all indicators of high levels of soil nutrients]. Signs of enrichment were present..."*

1.9.8 And:

*“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...”*

1.9.9 The development area has a low level of soil nutrients. The Appellant recognises, in their submitted evidence, that the offsite soil has a high nutrient load.

1.9.10 The soil conditions are not identical.

## **1.10 Conclusion**

1.10.1 The Appellant’s have not demonstrated ‘wholly exceptional circumstances’ with respect of the likely deterioration of the ancient woodland. There will be a likely significant net loss to biodiversity, impacts to protected species and direct loss of priority habitats.

1.10.2 The development as currently proposed in conflict with the requirements of paragraphs 174 and 180 of the NPPF 2021 and Policy CS13 of the Charnwood Borough Council Local Plan.