

PLANNING INSPECTORATE REFERENCE: APP/E2205/W/24/3345454

ASHFORD BOROUGH COUNCIL REFERENCE: 22/00571/AS

LOCATION: LAND NORTH OF POSSINGHAM FARMHOUSE, GREAT CHART

**PROOF OF EVIDENCE OF: EMMA JENNIFER ENGLAND BSc (Hons) ACIEEM
PIEMA**

Ecology matters

September 2024

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Introduction

1. I am Emma England. I hold a Master of Science in Ecology, Biodiversity and Evolution with a specialism in Conservation Biology from the Université Pierre and Marie Curie, Paris VI, awarded in 2011. I also hold a Bachelor of Science degree (Honours) in Natural Sciences whole organism biology and psychology awarded by Durham University in 2009. I am an Associate Member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and a Practitioner Member of the Institute of Environmental Management and Assessment (IEMA).
2. I have over 12 years of professional experience in environmental management (including ecology), ecological consultancy and as a local authority ecologist.
3. Since 12th July 2022 I have been employed as a Biodiversity Officer with Kent County Council's Ecological Advice Service (KCC EAS). Within this role I provide impartial ecological advice to Kent County Council Planning Officers to ensure compliance with biodiversity and protected species legislation, policy and best practice. Under Service Level Agreements, this ecological advice service is also provided to Ashford Borough Council (since 2015) and 11 other local planning authorities.
4. The evidence that I provide in this Proof of Evidence is true to the best of my knowledge and has been prepared and is given in accordance with the guidance of my professional institution. The opinions expressed are my own and are formed from professional judgement based on my knowledge and good practice.
5. My proof of evidence addresses reason for refusal number 4 on Ashford Borough Council's decision notice dated 14 December 2023, which states:

"4. In the absence of appropriate surveys and a robust assessment of the cumulative impact of development in the vicinity of the site, the applicant has failed to demonstrate that the development would not cause harm to protected species. The applicant has also failed to demonstrate that appropriate mitigation measures can be secured".
6. In summary, I explain in this proof of evidence that I consider that in light of the submission of further information from the Appellant (including an updated landscape parameter plan/open space plan (N, D0410_001 F dated 9th September 2024) and additional ecology information), reason for refusal 4 has now been addressed, subject to the imposition of conditions on any grant of planning permission. I provide draft conditions at Appendix 1. Notwithstanding the above, I am providing this proof of evidence because at the date of writing, the statement of common ground with the Appellant has not yet been signed, nor have all necessary conditions yet been agreed.

Relevant Background

Application Process

7. I am the second Biodiversity Officer to be involved in this application and I have been consulted on this site for the current application 22/00571.
8. As part of application 22/00571 two consultation responses were provided between May 2022 and August 2023. In the 23rd August 2023 KCC EAS advice note, I made a request for additional information to provide assurance that adverse impacts upon ecological receptors could be appropriately avoided, mitigated and compensated for. KCC EAS was not requested to provide any comments on any additional information that may have been submitted after 23rd August 2023.
9. The Addendum EclA dated November 2023 and the Biodiversity Metric Calculation Tool in excel spreadsheet format were received by Ashford Borough Council on 7th December 2023. This was two days after the planning committee report was published (5th December 2023). Ashford Borough Council did not therefore reconsult with KCC EAS prior to determination of the planning application on the additional information received as it was too late to do so.

Legislation

10. The key pieces of legislation relating to nature conservation in the UK are as follows.

Conservation of Habitats and Species Regulations 2017 (as amended)

11. When considering the impact on European Protected Species the Conservation of Habitats and Species Regulations 2017 (as amended) require the determining authority (the competent authority) to have regard to the requirements of the Habitats Directive in the exercise of its functions. As such, the determining authority must consider whether it is likely that a protected species mitigation licence from Natural England will be granted, and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development. The three tests are that:

- Regulation 55(2)(e) states: a licence can be granted for the purposes of *“preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”*.
- Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied *“that there is no satisfactory alternative”*.
- Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied *“that the action authorised will not be detrimental to*

the maintenance of the population of the species concerned at a favourable conservation status in their natural range.”

12. Relevant species covered by this legislation present or possibly present on-site, include: great crested newt (very low likelihood), bats and hazel dormice.

Wildlife and Countryside Act 1981 (as amended)

13. The Wildlife and Countryside Act 1981 (WCA) includes reference to the treatment of UK wildlife including protected species listed under Schedules 1 (birds), 5 (mammals, herpetofauna, fish, invertebrates) and 8 (plants).

14. Relevant species covered by this legislation present or possibly present on-site, include: British reptiles, great crested newt (very low likelihood), hazel dormice, breeding birds, bats.

Protection of Badgers Act 1992

15. Badgers are protected under the Protection of Badgers Act 1992 from killing, injury, cruelty and disturbance.

16. Badger setts are present in locations around the site boundary to the south and east.

Countryside and Rights of Way Act 2000 (CRoW)

17. Schedule 12 of the CRoW Act amends the species provisions of the WCA 1981, strengthening the legal protection for threatened species. The Act also introduced a duty on Government to have regard to the conservation of biodiversity and maintain lists of species and habitats for which conservation steps should be taken or promoted, in accordance with the Convention on Biological Diversity.

18. Part III of the CRoW Act deals specifically with wildlife protection and nature conservation. The Act requires that Government departments have regard for the conservation of biodiversity, in accordance with the Convention on Biological Diversity, and demands that the Secretary of State publishes a list of living organisms and habitat types that are considered to be of principal importance in conserving biodiversity.

Hedgerow Regulations 1997

19. 'Important' hedgerows (as defined by the Regulations) are protected from removal (up-rooting or otherwise destroying). Various criteria specified in the Regulations

are employed to identify 'important' hedgerows for wildlife, landscape or historical reasons.

20. All the hedgerows at the site were found to be 'Important' by the project ecologist.

Natural Environment and Rural Communities (NERC) Act 2006

21. Following consultation with Natural England, the Secretary of State identified species and habitats considered to be of principal importance for the conservation of biological diversity in England. These species and habitats are listed under Section 41 of the NERC Act. The list is to be kept under review and revisions are made as necessary as part of the progress reports on the Biodiversity Strategy for England.

22. A new initiative in England, 'Biodiversity 2020', replaced the former UK Biodiversity Action Plan Species aiming to reinforce the protection of Section 41 habitats and species.

Species relevant to the site that are listed under Section 41 of the NERC Act include (but are not limited to) skylark. Local planning authorities are required to have regard for the conservation of Section 41 species as part of planning decisions under their biodiversity duty.

Environment Act 2021

23. The Environment Act 2021 includes a legal target to halt wildlife decline by 2030 (section 3 of the Act).

24. Under the Environment Act 2021, all planning applications for major development (unless exempt^{1,2}) submitted on or after 12th February 2024 in England, will have to deliver at least a 10% biodiversity net gain. It is a requirement for minor applications, unless exempt, submitted on or after the 2nd April 2024.

25. Public authorities who operate in England must consider what they can do to conserve and enhance biodiversity in England by 1st January 2024. This is the strengthened 'biodiversity duty' that the Environment Act 2021 introduces. Thus a public authority must:

- Consider what it can do to conserve and enhance biodiversity;
- Agree policies and specific objectives based on that consideration;
- Act to deliver those policies and achieve their objectives.

¹ [Biodiversity net gain: exempt developments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments)

² [The Biodiversity Gain Requirements \(Exemptions\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2024/100/1)

Policy and Guidance

National Planning Policy Framework 2023

26. Paragraph 180 of the National Planning Policy Framework 2023 states:

- *“Planning policies and decisions should contribute to and enhance the natural and local environment by:

... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; ...”*

27. Paragraph 186 of the National Planning Policy Framework 2023 states:

- *“When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; ... and

d) ... opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”*

Office of the Deputy Prime Minister (ODPM) Circular 06/2005

28. Paragraph 84 of the Office of the Deputy Prime Minister (ODPM) Circular 06/2005³ states that *“... potential effects of a development, on habitats or species listed as priorities ... are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions”*.

29. Paragraph 99 of the ODPM Circular 06/2005 states: *“... it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”*.

Ashford Borough Council Local Plan 2030

30. Policy HOU5 states; -

³ [odpm-circ-0605.qxd \(publishing.service.gov.uk\)](#)

- *“Residential Windfall Development in the Countryside*

Proposals for residential development adjoining or close to the existing built up confines of the following settlements will be acceptable: Ashford, Aldington, Appledore, Bethersden, Biddenden, Brabourne Lees/Smeeth, Challock, Charing, Chilham, Egerton, Great Chart, Hamstreet, High Halden, Hothfield, Kingsnorth, Mersham, Pluckley, Rolvenden, Shadoxhurst, Smarden, Tenterden (including St Michaels), Wittersham, Woodchurch and Wye.
Existing Kingsnorth village

Providing that each of the following criteria is met:

...

e) The development must conserve and enhance the natural environment and preserve or enhance any heritage assets in the locality; and,

f) The development (and any associated infrastructure) is of a high quality design and meets the following requirements:-

...

vi) it would conserve biodiversity interests on the site and / or adjoining area and not adversely affect the integrity of international and national protected sites in line with Policy ENV1.”

31. Policy ENV1 states:

- *Biodiversity*

“Proposals that conserve or enhance biodiversity will be supported. Proposals for new development should identify and seek opportunities to incorporate and enhance biodiversity. In particular, development should take opportunities to help connect and improve the wider ecological networks.

Proposals should safeguard features of nature conservation interest and should include measures to retain, conserve and enhance habitats, including BAP (Priority) habitats, and networks of ecological interest, including ancient woodland, water features, ditches, dykes and hedgerows, as corridors and stepping stones for wildlife.

Development that will have an adverse effect on the integrity of European protected Sites, including the Wye and Crundale Special Area of Conservation and the Dungeness, Romney Marsh and Rye Bay Ramsar and SPA sites, alone or in combination with other plans or projects, will not be permitted. Any proposal capable of affecting designated interest features of European sites should be subject to Habitats Regulations Assessment screening.

Development that will have an adverse effect on nationally designated sites, including the borough's Sites of Special Scientific Interest and National Nature Reserves, will not be permitted unless the benefits, in terms of other objectives including overriding public interest, clearly outweigh the impacts on the special features of the site and broader nature conservation interests and there is no alternative acceptable solution.

Development should avoid significant harm to locally identified biodiversity assets, including Local Wildlife Sites, Local Nature Reserves and the Ashford Green Corridor as well as priority and locally important habitats and protected species. The protection and enhancement of the Ashford Green Corridor is one of the key objectives of the Plan and therefore all proposals coming forward within or adjoining the Ashford Green Corridor should comply with Policy ENV2 in the first instance.

Where harm to biodiversity assets cannot be avoided, appropriate mitigation will be required in line with a timetable to be agreed with the Local Authority. Normally any mitigation measures will be required to be delivered on-site, unless special circumstances dictate that an off-site model is more appropriate. A financial contribution - in lieu of on-site mitigation - will only be considered in very exceptional circumstances and where it is demonstrated that the proposed mitigation is deliverable and effective.

Opportunities for the management, restoration and creation of habitats in line with the opportunities identified for the Biodiversity Opportunity Areas (BOAs) and targets set out in the Kent Biodiversity Strategy will be supported."

The Birds of Conservation Concern 5 Report

32. Skylark and a number of other species recorded on-site are listed 'red' within The Birds of Conservation Concern 5 report⁴ (December 2021). Bird species are assessed against quantitative criteria that reviews historical declines, recent trends in population and range, population size, localisation and the international importance of each species, as well as its global and European threat status. Amber or red listed birds are those of increasing conservation concern.

British Trust for Ornithology Data

33. In considering my approach with regards to skylark, I have also considered breeding bird survey data available from the British Trust for Ornithology (BTO). These data indicate that in the last 10 years or so, skylark have shown some recovery in their populations in the south-east region and in the UK as a whole. Even though skylark have shown some recent recovery in numbers, in the context of historic losses the species is still of conservation concern. Considering the

⁴ [bocc-5-a5-4pp-single-pages.pdf \(bto.org\)](#)

bigger picture, if consistent small losses of skylark breeding habitat are permitted, the ability of skylark to continue to population recovery may be stalled or reversed. Further, if adequate compensation, based on sound science, is not proposed and implemented, then the same may be true.

34. The Breeding Bird Survey 2023⁵ assessed population trends for UK breeding birds. Data presented shows that there has been an 11% decline in UK skylark in the 27 years between 1995 and 2022, although UK populations seem to have shown some recovery between 2012 and 2022, including in the south-east region. In the south-east region between 1995 and 2022, skylark have shown a decline of 14% which is a larger decrease than across the UK as a whole. However, between 2012-2022 populations show a 20.6% increase, an 18.41% increase between 2017-2022 and 3.44% increase between 2022 and 2023. However, this recovery is set against extensive declines that did not start reversing until after 2010 in the UK. Skylark populations across the UK are still below population levels in the mid-90s. This is shown graphically below.⁶

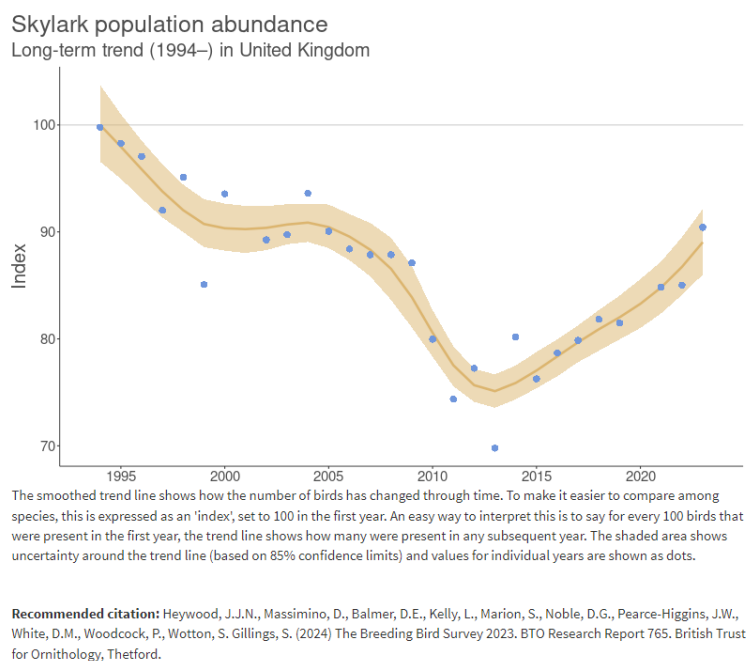


Figure 1: Change in Skylark Population Abundance Over Time.

The appeal scheme

35. The appeal scheme is an outline planning application for the development of up to 655 residential dwellings (including 30% affordable dwellings) to consider access only (excluding internal circulation routes), with all other matters reserved.

⁵ [BTO;JNCC;RSPB BBS Report 2023](#)

⁶ data.bto.org/trends_explorer/?species=Skylark

36. The appeal site is made up of three fields of c.7ha, c.7ha and c.4.5ha, divided by drainage ditches in the centre and hedgerows to the outer boundaries.

37. Five ecology reports have been provided as part of the current application:

- Preliminary Ecological Appraisal Report (Lloydboore, March 2021);
- Ecological Impact Assessment Report (EclA) (Corylus Ecology, April 2023);
- Addendum Ecological Impact Assessment (EclA) Report (Corylus Ecology, November 2023);
- Addendum Ecological Impact Assessment (EclA) Report (Corylus Ecology, July 2024);
- Biodiversity Net Gain Report (Corylus Ecology, March 2023) including associated Biodiversity Metric Calculation Tool excel spreadsheet (version 3.1).

38. These reports have detailed the following.

39. The site supports cereal cropland, mature hedgerows/ lines of trees, wet ditches with low water levels/seasonally dry and a spoil pile. All the hedgerows on-site were reported to be 'Important' under the Hedgerow Regulations 1997 due to the presence of wild service tree and/or protected species and/or by being adjacent to a byway. The ditches were assessed to support water levels too low for the likely presence of water vole or great crested newts.

40. The wild service tree in the northern hedgerow is considered to be of Local Importance and the hedgerows in general to be of Neighbourhood Importance.

41. Dormice are present in all boundary features of the site and are considered to be of Local Importance.

42. Emergence survey for roosting bats of one tree (T1) to be affected by proposals with low roosting bat suitability, no roosting bats were found.

43. The hedgerows bounding the site and the green corridor they provide into the landscape makes them of moderate habitat quality for commuting and foraging bats. The arable fields are of limited value to commuting and foraging bats. Three static monitoring and three transect surveys at the site found at least seven species of bat to use the site: common pipistrelle, soprano pipistrelle, Nathusius' pipistrelle, long-eared bat, serotine, *Myotis* sp(p) and noctule. An objective measure (Reason and Wray, 2023: UK Bat Mitigation Guidelines⁷) of the importance of the site for commuting and foraging bats, found the site to be of County importance.

⁷ [Bat-Mitigation-Guidelines-2023-V1.1.pdf \(cieem.net\)](https://www.cieem.net/Bat-Mitigation-Guidelines-2023-V1.1.pdf)

44. The breeding bird surveys at the site found breeding territories of birds of conservation concern, including: yellowhammer, skylark (at least four) and whitethroat. Breeding birds not of particular conservation concern were also recorded. The site is up to Local importance for breeding birds.
45. Two badger setts are known to be present on-site (a main sett used for breeding and several other setts around the site boundaries and off-site).
46. There is limited suitable reptile habitat on-site, no dedicated reptile surveys have been undertaken.
47. The ecological assessment submitted with the application provides a good understanding of the ecological interest within the site. An overview of the proposed mitigation was provided within the April 2023 EclA as well as the November 2023 and July 2024 Addendum EclAs. The intention of the proposed development is to mitigate the impact on the habitats and species recorded within the site through retained hedgerows, a detailed bat sensitive lighting plan(s), additional scrub planting and other biodiversity friendly landscaping and management, bird boxes, 30m buffer zone to the main badger sett, and off-site skylark mitigation.
48. The biodiversity metric calculation tool for the site indicates a 41.62% net gain in area habitats, 17.83% net gain in hedgerow units and a 44.79% net gain in river units.

Impacts and assessment

Overview

49. The proposed development would result in the direct loss of arable farmland, some trees (one with bat roosting features, but no recorded roosting bats), seasonally wet ditch and sections of hedgerow.
50. Retained and created habitats are likely to be subject to increased recreational pressure and cat predation. Without appropriate management, the retained and created habitats would be unlikely to achieve their proposed biodiversity objectives, including with regards to protected and priority species.

Reason for Refusal 4, conditions required to address impacts

51. This is concerned with the lack of appropriate surveys and a robust assessment of the cumulative impact of development in the vicinity of the site. As such, the applicant did not demonstrate that the development would not cause harm to protected species. The applicant also failed to demonstrate that appropriate mitigation measures could be secured.

52. Since the decision notice for refusal was issued 14th December 2023, KCC EAS has reviewed the additional information submitted via both the Addendum EclAs and Biodiversity Metric Calculation Tool (version 3.1) in excel spreadsheet format.
53. Most of my comments put forward within the advice note sent to Faye Tomlinson on 23rd August 2023 have been addressed and subject to the habitat creation being implemented as detailed within Figure 4 (Impacts and Mitigation Plan) of the November 2023 Addendum EclA and the latest landscape parameter plan/open space plan (N, D0410_001 F dated 9th September 2024), can now be secured by suitably worded conditions attached to a planning permission. I consider it likely that potential impacts to hazel dormice, great crested newt, reptiles, hedgerows, breeding birds (including skylark), badgers, and foraging and commuting bats can be dealt with in this manner.
54. I set out the conditions which I consider to be necessary at Appendix 1.
55. Imposition of these conditions would make the development acceptable in ecology terms.
56. There was a conflict between the landscaping proposed within Figure 4 of the November 2023 Addendum EclA and the landscape parameter plan/open space plan (reference: N (May 2021) Landscape Parameter Plan: Open Space Plan. Possingham Farm, Chilmington Green, Ashford, Kent. D0410_001 C). This created uncertainty as to whether reason 4 for refusal (with regards to the failure to demonstrate that appropriate mitigation measures can be secured) could be fully addressed at the detailed design stage. The nature of the conflict was follows. Whilst the appellant referenced an updated landscape parameter plan/open space plan that reflected Figure 4 of the November 2023 Addendum EclA, I had not been provided with a copy of it, until 16.45 on the 9th September 2024 (N Landscape Parameter Plan/Open Space Plan D0410_001 F dated 9th September 2024). The 2021 landscape parameter plan/open space plan showed different habitats to those shown in Figure 4. The latest landscape parameter plan/open space plan aligns more clearly to Figure 4. Both show the presence of scrub around the site boundaries, although scrub is proposed along the southern and northern boundaries in Figure 4, but no scrub is proposed along these boundaries in the latest landscape parameter plan/open space plan. The majority of the existing hedgerow along the northern boundary is retained in the latest landscape parameter plan/open space plan, and additional woodland planting is proposed along the southern boundary.
57. I further note that the latest Addendum EclA (July 2024) indicates the following in Section 7.0 - Mitigation and Residual Effects: *“An updated table of mitigation and residual effects [is] provided below. This replicates the table within the May 2023*

EclA, updated with mitigation provided in the November addendum report with some amendments to areas of habitat creation to allow for additional public open space provision". No updated Figure 4 has been provided as part of the July 2024 Addendum EclA. The updated landscape parameter plan/open space plan provided 9th September 2024 does show a reduction in the amount of scrub proposed relative to Figure 4. The July 2024 Addendum EclA indicates approximately 1.66ha of proposed mixed scrub, the November 2023 Addendum EclA indicates approximately 2.42ha of proposed mixed scrub. Based on the habitats proposed to be lost from the site that are suitable for hazel dormice and certain breeding bird species found on site, this is likely to provide sufficient compensation for habitat losses.

58. The original conflict between the plans was raised with the Appellant's ecologist by telephone on 20th August 2024. This was followed by an advice note sent to Ashford Borough Council on 21st August 2024. This advice note was shared with the appellant 28th August 2024.

59. I note that on Friday 6th September at 11.30am, the Appellant provided a further Ecological Impact Assessment Report Addendum (reference 21142, dated July 2024) alongside a draft statement of common ground. Given the deadline for proofs of evidence of Tuesday 10th September, I have reviewed the further EclA Addendum in advance of submission of this proof of evidence.

Further information on impacts and assessment

60. I set out below further information on the impacts of the appeal scheme and my assessment, under various headings. The purpose of this is to further explain my approach on certain issues and to provide further justification for certain of the conditions which I propose.

Biodiversity Net Gain

61. I note that the biodiversity metric calculation tool for the site indicates a 41.62% net gain in area habitats, 17.83% net gain in hedgerow units and a 44.79% net gain in river units. I further note that these gains are dependent upon detailed landscaping plans and a suitable landscape and ecological management plan being secured by suitable planning conditions. At present the biodiversity net gain aspirations slightly conflict with the most recent landscape parameter plan/open space plan (N Landscape Parameter Plan/Open Space Plan D0410_001 F dated 9th September 2024). For example, the submitted landscape parameter plan/open space plan shows a high number of large parkland trees are proposed. In the long-term, a high number of large trees, relatively closely spaced could affect the development's ability to achieve certain targeted habitat conditions e.g., good condition species-rich grassland. High public use (e.g., the creation of unofficial footpaths) and/or a

desire for 'tidy' road verges could also affect the ability of the development to achieve the presented biodiversity net gain.

62. I also note that the high amount of scrub creation (3.16 ha) recorded in the biodiversity metric calculation tool is likely to conflict with the latest landscape parameter plan/open space plan.

63. I would further note that biodiversity net gain principles in relation to additionality^{8,9,10} have not been clearly addressed within submitted calculations. Any habitat set aside for protected species mitigation can only contribute up to no net loss of biodiversity. I would generally advise that two different metrics are submitted, with one detailing the compensation measures for protected species being included only - to clearly show what has been included but not beyond the equivalent of no net loss.

64. However, despite the above, it is likely that even with slight changes to ecologically valuable habitat types and with additionality principles clearly addressed, that a net gain in line with the NPPF is likely to be achievable for these proposals.

Hazel dormice

65. Full survey data has now been provided and indicates that dormice are present within the north, east, south and western boundary hedgerows. The project ecologists have indicated that without appropriate mitigation, there is the potential for dormice to be disturbed, and/or to be killed or injured as a result of site clearance works. The November 2023 Addendum EclA Report indicates (within Figure 4) that approximately 36m of hedgerow along the northern boundary will be lost to facilitate access into the site. The ecologists also indicate that around 14m of hedgerow to the west of the site will be removed to facilitate site access (although this is suboptimal dormouse habitat). The biodiversity net gain calculations indicate that around 84m of hedgerow would need to be removed to facilitate the development.

66. It is understood that the remaining suitable habitat would be retained and would need to be protected from impacts during construction. The project ecologists indicate that a Hazel Dormouse Mitigation Licence will need to be granted by Natural England for works to proceed on-site that affect dormouse habitat.

67. During operation, hazel dormice would need to be protected from the effects of increased lighting and could be adversely affected by an increase in habitat disturbance and predation from domestic cats. The loss of habitat would need to be compensated for and habitat fragmentation effects mitigated for as far as

⁸ [Biodiversity Net Gain FAQs - Frequently Asked Questions | Local Government Association](#)

⁹ [Biodiversity-Net-Gain-Principles.pdf \(cieem.net\)](#)

¹⁰ [The Statutory Biodiversity Metric \(publishing.service.gov.uk\)](#)

possible. The project ecologists have submitted Figure 4, an Impacts and Mitigation Plan included in the November 2023 EclA Addendum Report. This plan shows additional scrub or woodland planting providing a buffer between development and the hedgerows around the majority of the site boundaries. I can also see there is some additional scrub planting indicated within an area of the open space to the south-west of the site.

68. However, there is development right up to part of the northern and eastern boundary showing on this plan. It would be preferable for the majority of protected species at the site, for a landscaped buffer zone to be present around all the site boundaries which would have the potential to reduce the negative effects of human pressures and maximise the ability of wildlife to continue to move through the landscape. However, I do acknowledge that the majority of boundary vegetation is being maintained, with landscaped buffer zones provided for most of the site. I further acknowledge that EC7 (as shown within Turkington Martin / JTP (26th November 2015) drawing titled OPA06R2: Open Space Plan revision P2), ecological mitigation land for the nearby Chilmington Green development is likely to provide connectivity for wildlife to the wider landscape. Impacts from the development will therefore be reduced.

69. There is now sufficient likeness between the mitigation, compensation and enhancement planting indicated on Figure 4 and the latest landscape parameter plan/open space plan.

70. Hazel dormice are fully protected through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). The Planning Authority, the determining authority, must have regard to the requirements of the Conservation of Habitats and Species Regulations 2017 in the exercise of its functions. As a hazel dormouse mitigation licence is considered necessary for works, the determining authority must consider whether it is likely that Natural England would grant the licence, and in so doing must address the three tests¹¹ when deciding whether to grant planning permission.

71. KCC EAS is only able to comment on test three: favourable conservation status. Based on the ecological information submitted, I consider that if the following can be secured by suitably worded planning conditions if the appeal is allowed, then favourable conservation status for hazel dormice can be maintained:

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1. *Regulation 55(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".*
2. *Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".*
3. *Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."*

- The implementation of the mitigation/compensation measures put forward in the April 2023 EclA and EclA Addendum Reports through a Construction Ecological Management Plan for site clearance and construction, detailed wildlife friendly landscaping plans (including scrub planting for dormice) and a Landscape and Ecology Management Plan to ensure created habitats achieve their target conditions;
- Assurance that the mitigation/compensation measures put forward in the EclA and EclA Addendum Reports (e.g., landscaping provision) do not conflict with any other planning considerations; and
- A detailed wildlife sensitive lighting scheme that can avoid and mitigate lighting effects on the site's vegetated boundaries in order to continue to allow dormice to access habitat through suitable connectivity in the wider landscape.

Breeding birds

72. Skylark and other farmland bird species such as yellowhammer and linnet are red listed species of conservation concern due to massive historic population declines¹². Many farmland bird species (including linnet, skylark and yellowhammer) and a range of other bird species (e.g., house sparrow, starling) are also listed under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 as Species of Principal Importance (aka. Priority Species) for conservation. Section 40 of the NERC Act 2006 places a general duty on all public authorities, including the local planning authorities, to conserve and enhance biodiversity. In this regard, Natural England guidance 'Wild birds: advice for making planning decisions', published 14 January 2022¹³, states "*you must have regard for the conservation of Section 41 species as part of your planning decision*".

73. In my 2023 advice note, I noted that no breeding bird survey data had been supplied in support of the planning application. I note that breeding bird surveys have since been carried out and I consider that the surveys carried out are sufficient to inform the application.

74. Most of the breeding habitat around the site boundaries will be retained, with proposals for habitat mitigation/compensation within landscaped buffer zones. As for dormice, scrub habitat mitigation is currently proposed (Figure 4, November 2023 Addendum EclA Report). The latest landscape parameter plan/open space plan shows a reduction in habitat provision for certain breeding birds relative Figure 4, but if the latest landscape parameter plan/open space plan is implemented, I would consider that the majority of impacts to breeding birds can be avoided, mitigated and compensated for. The viability of the scrub planting would need to be further explored to ensure that it does not conflict with other requirements e.g., the requirement for open space for recreational purposes.

¹² [bocc-5-a5-4pp-single-pages.pdf \(bto.org\)](#)

¹³ [Wild birds: advice for making planning decisions - GOV.UK \(www.gov.uk\)](#)

75. Additionally, I have noted that compensation for the loss of breeding habitat for some farmland birds e.g., skylark cannot be provided within the red line boundary. Off-site compensation has been proposed for the loss of four skylark breeding territories. Whilst the number of skylark territories to be compensated for is low, I consider it important to provide compensation due to the likely further losses of local territories associated with development in the wider area and taking into consideration the red list¹⁴ status of skylark. This development would likely have cumulative impacts with development in the surrounds on the local skylark population. The latest Addendum EclA (July 2024) makes the following statement: *“The most significant impact both on a Site level and on a cumulative level is the overall loss of habitat suitable for breeding skylark”*.
76. The details of the skylark compensation and its location have not yet been agreed, but it is likely that this aspect can be dealt with via a suitably worded condition. I disagree with the appellant that it would be suitable to use the land within EC8 (as shown within Turkington Martin / JTP (26th November 2015) drawing titled OPA06R2: Open Space Plan revision P2) from the Chilmington Green development for skylark compensation habitat. However, standard skylark compensation within winter sown wheat fields, for example, is relatively easy to achieve, and there is considerable suitable land within close proximity to the site. It is further understood from the appellant that it is likely that an agreement with a farmer within close proximity to the site could be reached for the implementation of skylark compensation measures.
77. My reasons for disagreeing with the appellant that field EC8 could be used as skylark mitigation are because I do not agree that the size of the field and its tall boundary features make it suitable for use by skylark. EC8 is 3.75 ha in size according to the Ecological Enhancement and Mitigation Strategy for Chilmington Green, Main Phase 1, November 2016 and 4.2 ha in size according to the July 2024 Addendum EclA. I have made an estimate of the size of the field using Google Earth Pro and estimate the field to be under 4 ha in size. The Royal Society for the Protection of Birds (RSPB) advice contained within ‘*A management guide to birds of lowland farmland*’ (Winspear and Davies, 2005) suggests that ‘*skylarks generally avoid small fields. The best fields to use are ones of at least 5 ha if bounded by open field boundaries or short hedges, or fields of at least 10 ha if bounded by tall hedges or woodland.*’ Other sources corroborate this^{15,16}. Research by the British Trust for Ornithology (BTO) indicates that tall structures such as hedgerows and woodland edge reduce the area of a field that skylark will use¹⁷.

¹⁴ [bocc-5-a5-4pp-single-pages.pdf \(bto.org\)](#)

¹⁵ [Skylark plots – CFE Online](#)

¹⁶ [rr129.pdf \(bto.org\)](#)

¹⁷ [rr129.pdf \(bto.org\)](#)

78. I am further, more generally concerned that adding skylark territories from the appeal site to the Chilmington Green site-wide mitigation strategy may prove challenging without considerable reconsideration of the type of compensation habitat created within that area.
79. The Chilmington Green site-wide mitigation strategy (by The Landscape Partnership, 24th November 2016) indicates that there is/was 298 hectares (ha) of farmland on-site and up to 40 skylark territories (paragraph 2.6.3). As a crude measure, this equates to 0.134 territories per ha. I understand that 66 ha of the 298 ha of farmland will be retained and enhanced for the benefit of farmland birds (paragraph 2.6.7). Two skylark plots per ha will be created within a minimum of 20 ha of retained farmland, and that this measure will be combined with wildlife-friendly arable field margins (paragraph 2.6.7). It is understood that up to six skylark territories will be lost from the Possingham Farmhouse appeal site. This totals 46 skylark territories requiring compensation.
80. Research indicates that fields with two skylark plots per ha can accommodate more nesting skylarks compared with conventional winter-sown wheat management (0.3 territories per ha compared to 0.2 territories per ha^{18,19}). If skylark plots are combined with arable field margins, 0.4 territories per ha could be supported. Based on this research, if two skylark plots per hectare are combined with wildlife-friendly field margins, then 115 ha of land would be needed to support 46 skylark territories.
81. Drawing OPAA06R2: Open Space Plan for the Chilmington Green, Ashford site indicates that the following parcels will comprise ecologically managed farmland: EC7, EC8 (3.75ha), EC4 (6.9ha), EC20 (11ha), EC3 (usable area of 8ha, 2 smaller areas of under 3ha and under 2.5ha), EC1 part 1 (field is proposed to be created through the division of an existing field, estimated to be around 9ha in size), EC1 part 2 (field proposed to be created through the division of an existing field, estimated to be just under 5ha in size), and EC2 (new woodland is proposed for creation within this field, but retained field estimated to be around 9ha).
82. Based on the fields I have assessed based on available desk-top information, that would have potential suitability for nesting skylark, I estimate an available area of land of around 49 ha within the Chilmington Green development zone. Based on the above scientific evidence for winter sown wheat, and the implementation of two skylark plots per ha, wildlife-friendly arable field margins, and provided caution is exercised with regards to boundary habitat planting, then I estimate that this area of land would be able to support approximately 19.6 skylark territories. That would be a loss of 26.4 skylark territories (taking into account the 40 skylark territories

¹⁸ - [Conservation Evidence](#)

¹⁹ [PR 416 SAFFIE Project Report 1 \(nerc.ac.uk\)](#)

from the wider Chilmington Green development, and the six to be lost from the Possingham Farm appeal site).

83. The Chilmington Green site Phase 1 Ecological Landscape Masterplan (drawing 115 Figure 12 dated 6th October 2016) indicates that there will already be three skylark plots within EC8. The accompanying report for this plan (Chilmington Green, Main Phase 1: Ecological enhancement and mitigation strategy, November 2016), indicates four rather than three skylark plots within EC8 (paragraph 3.5.4). Based on four skylark plots and wildlife-friendly field margins, and available data for winter sown wheat, I estimate that EC8 should be able to accommodate up to 1.5 skylark territories. The Phase 1 Ecological enhancement and mitigation strategy indicates that although EC7 may provide foraging habitat for skylark, it will not be managed specifically for nesting skylark (and is likely to be unsuitable for skylark nesting due to its use for recreation) (paragraph 3.5.5).
84. I am unclear how many territories from the Chilmington Green phase 1 development the existing measures within EC8 are proposed to compensate for. However, the July 2024 Addendum EclA for the appeal site indicates that EC8 is expected to provide for at least four additional skylark territories from the Possingham Farm appeal site (Page 24, Table 8). The July 2024 Addendum EclA indicates that in addition to the three skylark plots already proposed within EC8, a further three skylark plots are proposed to meet the additional need (space for at least four more skylark territories in addition to the 1.5+ territories already catered for in theory). The project ecologist has stated that the widely available standard guidance to create only two skylark plots per hectare was chosen as a compromise between economic pressures within commercial farming and conservation. However, I am not aware of research that supports the assumption that six to seven 16m² skylark plots will enable the site to support at least 5.5 skylark territories, although there is some research to support the idea that an increase in the size and quantity of skylark plots has potential to increase skylark densities²⁰.
85. The July 2024 Addendum EclA indicates that the additional two skylark territories recorded in 2024 are to be compensated for through the addition of three skylark plots to be provided within the wider Chilmington Green Ecologically Managed Farmland (Page 24, Table 8).
86. The project ecologist has stated that a higher number of skylark plots per hectare within the wider Chilmington Green ecological mitigation land would be adequate to provide all the necessary skylark compensation. It is uncertain whether this is accurate, and the appellant has not made any reference to relevant scientific research for transparency.

²⁰ - [Conservation Evidence](#)

87. Nevertheless, as alluded to above, EC8 is stated to be only 3.75 ha in size and is surrounded by tall hedgerows/woodland. The field is below the minimum size requirements considered optimal for skylark nesting and I therefore consider that the selection of EC8 is unlikely to form good and suitable compensation habitat for development of the Possingham Farm appeal site. Skylark are known to avoid small fields bounded by tall trees^{21,22,23}, and nesting success (due to losses through predation) is likely to be reduced for birds that might choose to nest in a small field, or that are forced to nest in such a field following displacement from more favourable habitat (e.g., due to habitat loss from development). I point out that no skylark territories were recorded within EC8 during breeding bird surveys carried out in 2010 or 2011 in support of the Chilmington Green development. There is therefore a risk that any measures proposed in EC8 will be unsuccessful over the long-term at compensating for the loss of any skylark territories due to development. To reiterate, I consider EC8 an unsuitable choice for skylark nesting habitat compensation.

88. If a different field of a suitable size and openness for skylark, and capable of supporting a greater density of nesting skylark through alternative management (as backed up by scientific data) is proposed within the available wider Chilmington Green mitigation land, then it may be possible to fully compensate for the loss of the full 46 skylark territories from the local population. However, it should be acknowledged that this is likely to be challenging.

89. I have shown above that available information indicates that based on the available land within the Chilmington Green development, even if the currently proposed mitigations of two skylark plots per ha and arable field margins are implemented across the entirety of the available suitable land (49 ha), there is a projected loss of 26.4 skylark territories (taking into account the 40 skylark territories from the wider Chilmington Green development, and the six to be lost from the Possingham Farm appeal site). It should also be acknowledged that the site-wide mitigation strategy for the Chilmington Green development currently only appears to commit to skylark plots across 20 ha rather than the 49 ha that could be available.

90. I caution that the number of skylark plots proposed within any plot of land should be determined based on the minimum field sizes recommended in guidance (5ha bounded by open field boundaries or short hedges, 10ha if bounded by tall hedges or woodland). I would also caution that scientific evidence/ monitoring data for other similar projects should support the proposed approach.

²¹ [Footnote 11 EH.pdf \(north-herts.gov.uk\)](#)

²² [BFBC-species-information-sheet-2019_Skylark.pdf \(gwct.org.uk\)](#)

²³ [Skylark plots - Farm Wildlife](#)

91. I have not found any scientific literature to support that more than 1.62 skylark territories per ha can be supported when looking at a range of habitat types. If suitable habitat was created, then 49 ha could support up to 79.38 skylark territories (based on 1.62 skylark territories per ha). However, 1.62 skylark territories per ha was found within marshland habitat in Germany. It is unlikely that it will be possible to recreate this habitat within the available mitigation land. Available literature indicates that habitat changes within farmland might achieve between 0.2-0.5 territories per ha (five-year set aside land²⁴) and 1 territory per ha (fallow land²⁵). This being achieved, 49 ha could support up to between 24.5 and 49 skylark territories. 49 territories would meet and exceed the required compensation. However, I would caution that the figure of 1 territory per ha is based on data from Germany and may not be fully applicable to the UK. I would further caution, that to achieve the top number of skylark territories, significant changes to currently proposed measures and stringent monitoring of the success of measures (and effective implementation of remedial measures as needed) would be required.

92. For an effective skylark mitigation and compensation strategy to be implemented, full consideration will need to be given to the size of area of land needed to support the displaced birds, by taking into consideration its proposed and/or current land use²⁶. Consideration may also need to be given to crop rotations on any land chosen.

93. In conclusion, if skylark compensation measures are to be secured by condition, it will be important to ensure that the wording is suitable to enable that compensation to be viable. I have been involved in the development of proposed wording for two conditions and consider that if these conditions are attached to any planning permission and there is sufficient confidence that they can be discharged, I would be satisfied that effects on skylark from the development can be effectively compensated for.

94. If a suitable location for off-site compensation can be agreed, and if it can be confirmed that the extent of the on-site mitigation put forward in the EclA Addendum Reports is possible, I would expect that potential adverse effects upon breeding birds could be fully addressed through suitably worded conditions for:

- A construction ecological management plan;
- A landscape and ecology management plan;

²⁴ [rr129.pdf \(bto.org\)](#)

²⁵ [Territory density of the Skylark \(*Alauda arvensis*\) in relation to field vegetation in central Germany - Toepfer - 2001 - Journal of Ornithology - Wiley Online Library](#)

²⁶ I acknowledge that the higher the habitat quality, in theory, the more breeding pairs the land will be able to support. Available literature indicates that most skylark territories will cover an area of 0.25 to 2 ha, with winter cereals, spring cereals and grassland being able to support between on average <0.1 territory per ha and 0.2 territories per ha. Five-year set aside crop land has been found to support up to around 0.5 territories per ha. Other habitats such as marshland can support higher densities with around 1.62 territories per ha. Source: [rr129.pdf \(bto.org\)](#)

- Wildlife-friendly detailed landscaping plans;
- An off-site skylark mitigation and compensation strategy.

Summary and Conclusions

95. In summary, I consider that in light of the submission of further information from the Appellant, reason for refusal 4 has been addressed, subject to the imposition of conditions on any grant of planning permission. I provide draft conditions at Appendix 1 to this proof of evidence.

96. In particular, the conflict between the landscaping proposed within Figure 4 of the November 2023 Addendum EclA and the landscape parameter plan/open space plan has largely been resolved through the latest submission. It is therefore likely that reason 4 for refusal (with regards to the failure to demonstrate that appropriate mitigation measures can be secured) can be fully addressed at the detailed design stage provided suitably worded conditions are in place should the appeal be allowed.

97. I therefore consider that the imposition of conditions can satisfactorily address the impacts to which the appeal scheme will give rise. Without these conditions, the proposal will conflict with paragraphs 180 and 186 of the NPPF, and policies HOU5(e) and (f)(vi) and ENV1 of the Ashford Local Plan.

98. This includes a condition to make sure that the size of any land chosen, and the measures chosen to make that land suitable for the number of skylark territories to be lost from the appeal site, are based on sound scientific research.

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Appendix 1: Condition Wording

Construction Ecological Management Plan

I suggest that the below wording is included as a condition for a Construction Ecological Management Plan (CEMP – biodiversity) if the planning appeal is allowed. This will mitigate for impacts to biodiversity and help ensure compliance with relevant legislation.

I advise that the below suggested wording does not cover all aspects usually covered within a Construction Environmental Management Plan (CEMP) (such as pollution control, noise, lighting etc. during construction). Therefore, this wording should either form **part of** any larger CEMP / Construction Management Plan (CMP) condition required or should form a **separate** stand-alone condition for a Biodiversity Method Statement.

Suggested Condition Wording:

No development shall be undertaken (including any site clearance) before a construction ecological management plan (CEMP - biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP - biodiversity shall be based on the recommendations in section 10 of the Corylus Ecology Ecological Impact Assessment Report (dated 24th April 2023), section 10 and Figure 4 (Impacts and Mitigation Plan) of the Corylus Ecology Addendum Ecological Impact Assessment Report dated November 2023 and sections 7 and 8 of the Addendum Ecological Impact Assessment Report (dated July 2024). It shall include the following:

- *Purpose and objectives for the proposed works;*
- *Risk assessment of potentially damaging construction activities. This shall include reference to the results of updated species/habitat surveys as advised by a suitably qualified ecologist;*
- *The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;*
- *Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats;*
- *Detailed design(s) and/or detailed working method(s) necessary to achieve stated objectives (including the location and timing);*
- *Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;*
- *Reference to any relevant and necessary protected species licences (e.g., badgers and dormice) and any relevant mitigation measures required;*
- *Reference to a detailed arboricultural method statement to protect retained trees/hedgerows;*
- *Persons responsible for implementing and monitoring the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;*
- *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and*
- *Details of the disposal of any wastes required to implement works.*

The approved CEMP - biodiversity will be adhered to and implemented throughout the construction period in accordance with the approved details.

Detailed Landscaping Plans

Care will need to be taken to ensure that biodiversity matters are adequately considered in the detailed soft landscaping design. I suggest that reference to this is included in any associated planning conditions. I would also recommend that the provision of bird nest boxes, bat boxes and hazel dormouse boxes is shown on landscaping plans as per section 10 of the Corylus Ecology Ecological Impact Assessment Report (dated 24th April 2023), section 10 and figure 4 (Impacts and Mitigation Plan) of the Corylus Ecology Addendum Ecological Impact Assessment Report dated November 2023, section 7 of the Addendum Ecological Impact Assessment Report dated July 2024 and the landscape parameter plan/open space plan (N, D0410_001 F dated 9th September 2024).

Landscape and Ecological Management Plan

To ensure successful establishment and retention of the proposed biodiversity enhancements through appropriate long-term management and monitoring, I advise that a condition for a Landscape and Ecology Management Plan (LEMP) is attached to any approved planning permission. The LEMP will show how management will ensure that the proposed habitat types and target condition values are to be achieved and maintained. The LEMP will be based on detailed landscaping plans that ensure adequate consideration of biodiversity. Care will need to be taken to ensure there are no conflicts when it comes to condition discharges e.g., in relation to landscaping conditions and the requirement for a general landscape management plan.

Suggested Condition Wording:

No development shall be undertaken (including any site clearance) before a Landscape and Ecological Management Plan (LEMP) has been submitted to, and has been approved in writing by, the local planning authority. The content of the LEMP shall be based on the recommendations in section 10 of the Corylus Ecology Ecological Impact Assessment Report (dated 24th April 2023), sections 10 and 11, and Figure 4 (Impacts and Mitigation Plan) of the Corylus Ecology Addendum Ecological Impact Assessment Report dated November 2023, the Biodiversity Net Gain Report (dated March 2023) and associated biodiversity metric calculation tool (dated March 2023) produced by Corylus Ecology, as well as sections 7 and 8 of the Addendum Ecological Impact Assessment Report dated July 2024 and the landscape parameter plan/open space plan (N, D0410_001 F dated 9th September 2024). The LEMP shall include the following:

- *Description and evaluation of features to be managed;*
- *Constraints on site that might influence management;*
- *Aims and objectives of management;*
- *A 30m buffer from development for the identified main badger sett;*
- *Measures to reduce potential conflict between humans and badgers (e.g., measures to reduce the risk of badgers digging setts in residential gardens)*
- *Reference to detailed landscaping plans (including planting schedules) for the site;*

- *Appropriate management prescriptions for achieving aims and objectives (including sensitive management for amphibians, reptiles, bats, hazel dormice, badger, breeding birds, hedgerows);*
- *Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);*
- *Details of the body or organisation(s) responsible for implementation of the plan, and;*
- *Ongoing monitoring and remedial measures.*

The LEMP will include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Biodiversity Sensitive Lighting Condition

Lighting in the vicinity of a bat roost or along commuting / foraging routes could constitute an offence both to a population and to individuals. Artificial lighting is also considered potentially harmful to hazel dormice. Artificial lighting has been shown to be particularly harmful to bats along river corridors, near woodland edges and near hedgerows²⁷. Local authorities have a duty to ensure impacts upon legally protected species are avoided and impacts upon bats are a material consideration in any planning permission under the Natural Environment and Rural Communities (NERC) Act 2006 and through the NPPF 2023.

Therefore, to mitigate against potential adverse effects on biodiversity, the Bat Conservation Trust/Institute of Lighting Professionals's '*Guidance Note 8 Bats and Artificial Lighting at Night*'²⁸ (or subsequent updates) should be consulted in the lighting design of the development. An informative could be included to signpost the applicant to this guidance.

I advise that the incorporation of sensitive lighting design for biodiversity is submitted to the local planning authority and secured via an attached condition with any planning permission.

Suggested Condition Wording:

Prior to completion, a lighting design plan for biodiversity shall be submitted to and approved in writing by the local planning authority. The strategy shall include the following:

- *The identification of areas/features on-site where disturbance could occur to bat and hazel dormouse roosting/nesting sites and/or foraging/commuting routes;*
- *The provision of an appropriate plan(s) to show how and where external lighting will be installed;*

²⁷ [layout \(bats.org.uk\)](https://bats.org.uk/layout)

²⁸ [Guidance Note 8 Bats and Artificial Lighting | Institution of Lighting Professionals \(theilp.org.uk\)](https://theilp.org.uk/Guidance-Note-8-Bats-and-Artificial-Lighting)

- *The provision of technical specifications for the external lighting;*
- *The provision of lighting contour plans to show expected lux levels on both the horizontal and vertical planes, so that it can be clearly demonstrated that areas to be lit will not disturb bat/dormouse activity.*

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Off-site skylark mitigation and compensation strategy

No development shall be undertaken (including any site clearance) before a Skylark Mitigation and Compensation Strategy has been submitted to, and approved in writing by, the local planning authority. The Strategy shall ensure off-site habitat is provided for the projected loss of at least six skylark territories (as identified in the Corylus Ecology Addendum Ecological Impact Assessment Report dated July 2024 (Corylus reference 21142). The Strategy shall ensure the mitigation and compensation measures with regards to habitat improvements proposed, and the area of land required, are based on available scientific research (such as The SAFFIE Project Report by Clarke et al., June 2007; BTO Research Report No. 129 by Wilson and Browne, October 1993; and Journal für Ornithologie article on Territory density of the Skylark (Alauda arvensis) in relation to field vegetation in central Germany by Toepfer and Stubbe, December 2001). If the proposed compensation site already has existing skylark territories and/or is already proposed as skylark compensation for other development, evidence shall be provided to demonstrate that the measures proposed are additional to any existing territories. The Strategy shall include the following:

- *Up-to-date breeding bird survey data for the proposed compensation site;*
- *Purpose and conservation objectives for the proposed works;*
- *Review of site potential and constraints;*
- *Detailed design(s) and/or working method(s) to achieve stated objectives;*
- *Extent and location/area of proposed works on appropriate scale maps and plans;*
- *Type and source of materials to be used where appropriate, e.g. native species of local provenance;*
- *Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;*
- *Details of the body or organisation(s) responsible for implementing the Strategy;*
- *Details of initial aftercare and long-term maintenance, and;*
- *Details for monitoring (to be undertaken by a suitably qualified ecologist(s)) and remedial measures.*

The Skylark Mitigation and Compensation Strategy shall be implemented in accordance with the approved details and no later than the commencement of

construction or site clearance if earlier. All features shall be retained as approved thereafter, unless remedial measures are required.

Approval for any remedial measures shall be sought from the local planning authority in writing through condition x and thereafter implemented as approved.

Monitoring of the Skylark Mitigation and Compensation Strategy

Post-completion of the habitat improvement/creation works as secured by condition x, monitoring of the number of skylark breeding territories at the off-site compensation site shall be carried out in years 2, 5 and 10 by a suitably qualified ecologist and in line with standard professional survey guidelines. Year 1 shall be said to commence subsequent to a dated written statement from a suitably qualified ecologist to confirm that the habitat improvement/creation works have been completed and which shall be submitted to the local planning authority. After each monitoring period full breeding skylark survey results shall be submitted to, and be approved in writing by, the local planning authority, including details of any required remedial management. The approved remedial measures shall be implemented.