

CD6.21

APPLICATION No: 17/04673/OUT

APPEAL REF: J4423/W/21/3267168



Town and Country Planning Act 1990

Appeal by Hallam Land Management Ltd.

Land at Junction with Carr Road and Hollin Busk Lane, Sheffield.

**PROOF OF EVIDENCE:
ECOLOGY & NATURE CONSERVATION**

Mr Kurt Goodman, BSc (Hons), MSc, MCIEEM

May 2021

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH

Company No. 07128076. [T] 01509 672772 [F] 01509 674565 [E] mail@fpcr.co.uk [W] www.fpcr.co.uk

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DECLARATION

“The evidence which I have prepared and provide for this appeal reference J4423/W/21/3267168 is true and has been prepared and is given in accordance with guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions”.

1.0 PERSONAL DETAILS

- 1.1 I am Mr Kurt David Goodman and this Proof of Evidence (PoE) has been prepared on behalf of the Appellant (Hallam Land Management Ltd.).
- 1.2 I hold an Honours Degree in Environmental Biology from the University of Sunderland and an MSc in Environmental Management for Conservation and Recreation from Sheffield Hallam University. I am a Member of the Chartered Institute of Ecology and Environmental Management. I have over twenty years' experience of complex developments. I hold Natural England survey licenses for bats and great crested newts and have held these for over 19 years. I am routinely involved in site selection, constraints analysis, mitigation to minimise environmental impacts, detailed design involving habitats and protected species for complex multi-phased schemes and dealing with biodiversity net gain (BNG) for the purpose of development and the creation of biodiversity banks to supply BNG credits to developers if required. I have experience of providing evidence at planning appeals on matters relating to ecology and nature conservation including those relating to general ecological matters and those related to protected species and sites.
- 1.3 I am a Director of Ecology at FPCR Environment and Design Ltd, a multi-disciplinary Company of Architects, Landscape Architects, Ecologists and Arboriculturalists with over fifty years' experience of award-winning development projects.
- 1.4 Our environmental expertise has been utilised by numerous nationally known client bodies to facilitate development where appropriate, close to sensitive sites. FPCR is now one of the country's leading ecological consultancies acting on behalf of clients such as English Heritage and were contracted by Natural England to run the 'Bat Line Service' for the East Midland's Region from 2000 until December 2012. I was the lead consultant covering the Natural England 'Bat Line Service' for the period of our contract.
- 1.5 The evidence which I have prepared and provided for this appeal is true and has been prepared and is given in accordance with guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2.0 BACKGROUND & APPOINTMENT

Background

- 2.1 FPCR were originally appointed by the Appellant in June 2017 to complete an ecological assessment of the application site (hereafter referred to as the 'Site'). The original submissions evaluated the potential ecological constraints of the site and the proposals for an outline planning application for up to 93 residential dwellings with associated Green Infrastructure (GI). This assessment confirmed the ecological receptors within the Site are of limited ecological importance. Fox Glen and the interface with the woodland is the main ecological influence on the proposals.
- 2.2 The amended scheme submitted in January 2020, maintained the sensitive interface with Fox Glen but the reduction in residential dwellings (from 93 to up to 85) also reduced the level of potential ecological effects arising from the proposals. Consequently, the conclusions of the original ecological submissions which assessed the potential effects of up to 93 dwellings, also

provided a robust assessment of the potential ecological effects of the amended scheme submitted in January 2020.

- 2.3 The 'Revised Illustrative Masterplan (April 2021)' submitted to this Appeal, is a refinement of the potential scheme, adjusting the illustrative layout to show how more undeveloped land (in lieu of houses) can be achieved around the Listed Buildings. Whilst this revised illustrative layout shows 83 dwellings, it remains the case that the site can accommodate up to 85, with a different dwelling mix in due course, subject to reserved matters approval. From an ecological perspective, the revised plans result in no material difference to the overall assessment of effects but would likely provide some betterment to the surface water discharge; on the basis that they provide for a second SUDS basin, in the area, previously illustrated for houses. Further, due to the presence of a second SuDs basin, there would be an uplift in biodiversity net gain.
- 2.4 This Proof of Evidence (PoE) covers matters relating to ecology and nature conservation. It addresses the proposals submitted to SCC over the determination periods and the 'Revised Illustrative Masterplan (April 2021)' submitted to this Appeal in May 2021. A comprehensive range of documentation, including various surveys has been undertaken in support of the planning application and this Appeal.

Chronology of Submissions and Responses from Statutory Consultees

- 2.5 The following provides a summary of the chronology of the ecological submissions and consultation responses (full details are provided at Appendix 1). Further information relating to the planning history and timeline is provided in the Appellants Statement of Case (SoC) and planning evidence provided by Mr Bolton (Strategic Planning Research Unit, DLP Planning).
- 2.6 The outline planning application for the Site was supported by the submission of an Ecological Appraisal (dated: November 2017). This provided an assessment of the potential effects of the proposals and where necessary identified appropriate mitigation (CD.1.14)¹.
- 2.7 In October 2018, additional ecological information was submitted to SCC to address comments provided by them on the original submission. This document also addressed matters relating to the proposals for and impacts of the scheme's drainage outfall through Fox Glen Local Wildlife Site (LWS), the potential affects to Clough Dike and additional mitigation for the potential effects of these works (CD.1.17a-c)².
- 2.8 In January 2020, the proposals were subject to minor revisions which included a reduction of the development density to provide up to 85 residential dwellings. In effect, the revised scheme slightly reduced any potential effects to ecological receptors identified within and surrounding the Site, on the basis of decreasing the number of proposed dwellings. The revised submission was also supported by an updated Phase 1 Habitat Survey and updated ecological position statement (Dated: 17 January 2020) (CD1.18).
- 2.9 Sheffield City Council (SCC) completed the screening stage of a Habitat Regulations Assessment (HRA) in July 2018 (CD2.25). This assessment followed and is consistent with Natural England's advice provided in January and March 2018, concluding that the proposals would not result in 'likely significant affects' to the conservation objectives of the South Pennine Moors Special Area of Conservation (SAC) and the Peak District Moors (South Pennine Moors Phase 1) Special

¹ Hallam Land Management Ltd. Ecological Appraisal & Protected Species Report. Land off Carr Road, Deepcar. FPCR November 2017.

² Hallam Land Management Ltd. Ecology: Additional Information Document. Land off Carr Road, Deepcar. October 2018.

Protection Area (SPA). This matter remains agreed and is confirmed in the Ecological SoCG (CD6.11: Paragraph 2.14).

- 2.10 The Ecological SoCG confirms the main parties agree that the completed survey work is in accordance with standard methodologies. The SoCG also confirms that the Appellant completed all relevant additional surveys and assessment work as requested by SCC and Sheffield Ecology Unit (SEU). It is agreed with SCC that the scope, content, and conclusions of the submitted documentation is comprehensive and robust providing the necessary information on all material ecological considerations to determine the application (CD6.11: Paragraph 2.2).
- 2.11 In discussions with SCC through the appeal process, it was suggested by SCC that a draft condition require further site survey work. Following the submission of the results of an Updated Phase 1 Habitat Survey completed in August 2020 (CD1.31), SEU have agreed in the SoCG that matters relating to ecology and nature conservation are resolved and there are no substantive matters, which would prevent a positive determination of this appeal (CD6.11: Paragraphs 2.4 & 3.2).
- 2.12 Although it is common ground between the main parties that all relevant ecological information has been provided, in preparation for the appeal and for completeness, updated ecological surveys have been completed. The details are provided at Appendix 2. In summary the updated surveys include:

- | | |
|--|---|
| 1. Phase 1 Habitat Survey: | Aug 2020 (noted above) |
| 2. Bat Activity Surveys (Static Detector / Walked Transect): | May – September 2018 & April / May 2021 |
| 3. Invertebrate Scoping Assessment: | Aug 2020 |
| 4. Winter Bird Surveys: | December 2020 – February 2021 |
| 5. Fox Glen. Extended Bird Surveys: | December 2020 – May 2021 |
| 6. Passage Bird Surveys: | March – April 2021 |
| 7. Breeding Bird Surveys: | April – May 2021 |
| 8. Local Wildlife Site Assessment: | April 2021 |
| 9. Water vole, white clawed crayfish, and otter survey: | April 2021 |

Appointment & Structure

- 2.13 The outcome of the above surveys is consistent with those previously undertaken.
- 2.14 There are no ecological Reasons for Refusal (RfR) on the Decision Notice dated 20 July 2020 (CD1.9). However, some ecological issues are referred to in third party representations. Consequently, I have been appointed to address third party representations and this PoE responds to those issues and other matters relating to ecology and nature conservation.

- 2.15 This PoE refers to the relevant baseline ecological information obtained over the extended survey period of 2016 - 2021, the potential effects of the proposals, relevant mitigation where deemed appropriate and enhancements proposed by the development. Further, it addresses biodiversity net gain ("BNG"). Technical Notes detailing the BNG assessment for the submitted and revised appeal scheme illustrative layout are provided at Appendix 2: Annex K.
- 2.16 It is my view that a comprehensive and robust level of survey, assessment and review has occurred in relation to the Site and proposed development (including by the Council and relevant statutory bodies). Indeed, there is greater level of analysis than I would expect for such a Site, which is of low ecological significance.
- 2.17 Overall, I consider the Site and ecological receptors within the Site are of low ecological importance with a capacity for development, which would not result in more than low level harm. I conclude that there are no reasons relating to matters of ecology; biodiversity and the relevant regulatory framework (including HRA), which prevent the appeal being allowed. This position reflects that of the SCC and the relevant statutory consultees.
- 2.18 The PoE is presented in the following Sections:
- Section 3:** Legislation, Relevant Planning Policy & Guidance.
 - Section 4:** Baseline Evidence.
 - Section 5:** Ecological Influences and design.
 - Section 6:** Assessment of Potential Effects & Mitigation for Habitats / Species.
 - Section 7:** Biodiversity Net Gain.
 - Section 8:** Consultation Responses from Statutory Consultees.
 - Section 9:** Consideration of Third-Party Submissions; and
 - Section 10:** Summary & Conclusions.

3.0 RELEVANT LEGISLATION, PLANNING POLICY & GUIDANCE

- 3.1 The following section reviews planning policy, legislation, and key guidance relevant to this Appeal. Whilst Mr Bolton generally deals with planning policy, I briefly address relevant policy, legislation and key guidance at Section 10.

Legislation

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

Designated Sites

- 3.2 The Conservation of Habitats and Species Regulations 2017 (*as amended*), (hereafter referred to as the 'Habitat Regulations'), provides the legislative framework to protect a network of sites where rare or important habitats and species are present in order to protected biodiversity. These sites are listed on the National Site Network.
- 3.3 Competent Authorities have a duty under the Regulations regulated activities they authorise to ensure 'no adverse effect on the integrity of a Natura 2000 site or a site listed on the National Site Network'. Regulation 63 requires:

‘63(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project, which:

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives.

63(3) The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

63(5) In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

63(6) In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.’

- 3.4 Where projects potentially affect sites listed on the National Site Network, Regulation 63(1) outlines the two-stage assessment process. This confirms the competent authority should first determine whether the plan / project is likely to have a significant effect on a designated site. In the event a likely significant effect is identified, the competent authority is then required to determine whether the plan / project will affect the integrity of the European site.
- 3.5 Article 6(4) provides a mechanism by which despite a negative assessment of a plan or project for the site, a plan or a project can proceed with appropriate compensation in cases where there is no satisfactory alternative and reason of overriding public interest can be demonstrated.

General Species Protection

- 3.6 Species afforded protection under the Habitat Regulations and of principal relevance to this PoE are bats. Species listed in Annex IV(a) of the Habitat Regulations, their resting places and breeding sites are also afforded full protection under both the Wildlife & Countryside Act (WCA) 1981 (*as amended*). However, when these species or the resting places or breeding sites of these species are affected by proposals or works, the legislative mechanism by which licenses are granted is the Habitat Regulations.
- 3.7 Breeding sites or resting places of bats are not affected by the appeal proposals. Consequently, the legal protection for such sites is not considered further in this evidence.

Protection for Foraging Areas & Commuting Routes

- 3.8 Foraging areas and commuting routes for bats are not afforded strict protection by the Habitat Regulations or the Wildlife & Countryside Act (WCA) 1981 (*as amended*). Commuting routes are only afforded strict protection under the Habitat Regulations when the removal of such routes could lead to the ‘deterioration’ of a roost site. (Guidance on such protection is provided in

'Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC. Feb 2007').

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

- 3.9 Species afforded protection under this legislation and relevant to this PoE include common species of reptiles, bats, and birds.
- 3.10 Common species of reptiles and bats are afforded protection under Sections 9(1) and 9(5) of Schedule 5 of the WCA 1981 (as amended). This legislation protects these animals from:
- intentional killing and injury; and
 - selling, offering for sale, possessing, or transporting for the purpose of sale or publishing.
- 3.11 Part 1 of this Act also provides protection for all species of wild birds during the breeding season. Under the Act all birds, their nests and eggs are protected by law and it is an offence, with certain exceptions to recklessly or intentionally:
- Kill, injure, or take any wild bird.
 - Take, damage, or destroy the nest of any wild bird while in use or being built; and
 - Take or destroy the egg of any wild bird.
- 3.12 Several species of wild birds are also listed on Schedule 1 of the Act. This provides protection for the species at all times.

Natural Environment and Rural Communities (NERC) Act 2006

- 3.13 Section 40 (1) of the NERC Act 2006 requires public authorities when exercising their functions to 'have regard, so far as is consistent with the proper exercise of those functions to the purpose of conserving biodiversity'. The latter is defined as including restoring or enhancing a population or habitat (Section 40 (3)).
- 3.14 Section 41 (S41) of the NERC Act 2006 requires the Secretary of State (SoS) to publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity. Before publication, the SoS must consult Natural England.
- 3.15 Once published and without prejudice to Section 40(1), the SoS must:
- a. Take such steps as appear to the Secretary of State to be reasonably practicable to further conservation including living organisms and habitats included in any list published under this section; or*
 - b. Promote the taking by other of such steps.*

Draft Environment Bill December 2020

- 3.16 The Draft Environment Bill provides the legal mechanism by which the 25 Year Environment Plan can be enforced. This bill is yet to be enacted but the Queen's Speech indicated the Bill will be introduced in the upcoming parliamentary year.
- 3.17 Part 6 of the legislation directly relates to Nature and Biodiversity and commits to providing a 'net gain' to biodiversity as a condition of planning permission. Schedule 15(4)(3) of the draft Bill

indicates the required 'net gain' for planning permission will be 10%. The content of the Bill, including the latter figure may change, as it passes through the various parliamentary stages.

National Policy

National Planning Policy Framework (NPPF) (Feb 2019)

- 3.18 The National Planning Policy Framework was updated in February 2019 to provide guidance for planning authorities and other decision makers on achieving sustainable development. Paragraphs 170 - 177 are relevant to biodiversity and a summary of the relevant elements is provided below.
- 3.19 Paragraph 170 recommends the planning system should contribute to and enhance the natural and local environment. Bullet points (a) and (d) (below) are relevant to this evidence:
- **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan),**
 - **minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.**
- 3.20 When determining planning applications Paragraph 175 recommends that local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- **if significant harm 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,**
 - **development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest,**
 - **development resulting in the loss or deterioration of irreplaceable habitats (such as Ancient Woodland and ancient or Veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and**
 - **development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.**
- 3.21 Paragraph 177 states:
- 'The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an appropriate assessment has***

concluded that the plan or project will not adversely affect the integrity of the habitats site’.

National Planning Practice Guidance³

- 3.22 The section of the NPPG relating to Guidance for the natural environment (updated 21 July 2019) explains key issues in implementing policy to protect biodiversity, including local requirements.
- 3.23 Paragraph 009 confirms that when exercising their functions, public authorities have a duty to have ‘regard’ to the purpose of conserving biodiversity as outlined in Section 40 of the Natural Environment & Rural Communities Act 2006. The purpose of this duty is to embed consideration for biodiversity into the decision-making process with the aim of making significant contributions to achieving the government commitments in the 25-year Environment Plan.
- 3.24 Paragraph 013 confirms local ecological networks are important for nature conservation, making an important contribution in developing a Nature Recovery Network. The expectation of National planning policy is that local ecological networks are identified and mapped, through the plan making process and policies applied that secure protection from harm or loss and enhance them and their connection to wider ecological networks.
- 3.25 Recommendations for considering biodiversity when preparing planning applications are outlined at Paragraph 018. This confirms information on biodiversity needs to be considered when designing a development, and ecological surveys are required in advance of a planning application if the proposals could have a significant effect on biodiversity and existing information is lacking or inadequate. This guidance recommends that assessments need to be proportionate to the nature and scale of the proposals and the likely effects.
- 3.26 Paragraph 019 confirms the ‘mitigation hierarchy’ outlined at Paragraph 175 of the NPPF should be applied. Paragraph 022 encourages net gain for biodiversity. through planning policies and decisions and Paragraph 025 advocates the use of a ‘biodiversity metric’ to demonstrate whether a net gain to biodiversity can be achieved. In this case, net gains will be achievable on site.

Adopted Regional & Local Policy

- 3.27 The following section considers adopted local planning policies relevant to ecology and nature conservation. The weight which can be attributed to these policies is not considered here. Mr Bolton deals with matters of planning policy.

Sheffield Core Strategy (Adopted March 2009)

- 3.28 The currently adopted Sheffield Local Plan comprises the Sheffield Core Strategy (adopted March 2009) (formerly called the Sheffield Development Framework Core Strategy). This document provides the objectives and spatial strategy and policies for Sheffield until 2026. The following policies are relevant to ecology and nature conservation.
- 3.29 Policy CS73 ‘The Strategic Green Network’ is relevant to this appeal as Fox Glen forms part of the overall Green Network. This policy seeks to maintain a strategic green network within and close to urban areas. The intention is that the green network will be complemented by a network of local Green Links and Desired Green Links.

³ Biodiversity, geodiversity and ecosystems. (Source: <https://www.gov.uk/guidance/natural-environment#biodiversity-geodiversity-and-ecosystems>. Accessed on: 28.03.21)

- 3.30 The policy seeks to enhance the provision of good quality footpaths which integrate parks, woodland and canals, and improve access to the overall network.

The Sheffield Unitary Development Plan (UDP) (Adopted March 1998)

- 3.31 The following considers saved UDP policies relevant to ecology and nature conservation.
- 3.32 Policy GE10 'Green Network' seeks to provide a network linking important habitats and providing ecological connectivity into Sheffield from the countryside. Part of the network's role is to link important habitats allowing movement of plants and animals into Sheffield from the countryside. The council envisage this policy will be achieved through encouraging development and land management changes which enhance the ecological, recreational and amenity value of open spaces and the countryside.
- 3.33 This policy states:

A network of green corridors and green links will be:

- ***protected from development which would detract from their mainly green and open character or which would cause serious ecological damage; and***
- ***enhanced by encouraging development which increase their value for wildlife and recreation; and***
- ***extended by creating new open space in areas of Desired Green Links.***

- 3.34 Policy GE11 'Nature Conservation and Development' aims to protect and enhance the Natural Environment. This requires proposals to promote nature conservation by reducing potential effects on natural features of value.

- 3.35 Policy GE13 'Areas of Natural History Interest and Local Nature Sites' seeks to avoid development which would damage Local Nature Sites. This policy states:

'...Development affecting Local Nature Sites should, wherever possible, be sited and designed so as to protect and enhance the most important features of natural history interest.

Where development would decrease the nature conservation value of an Area of Natural History Interest or Local Nature Site, that decrease must be kept to a minimum and compensated for by creation or enhancements of wildlife habitat elsewhere within the site or local area.'

- 3.36 This policy recognises that many Local Nature Sites are situated in areas which are needed for development and recognises that there may be opportunities to conserve and enhance features of the greatest wildlife and community value in developments.
- 3.37 Policy GE15 seeks to promote the establishment of tree and woodland planting and the retention of mature trees, copses, and hedgerows within development. To provide further protection this policy recommends not permitting development which would damage existing mature and ancient woodlands.
- 3.38 River and streams are afforded protection through Policy GE17. Of relevance to this appeal, this policy recommends not permitting development where culverting rivers or stream is necessary and requiring any development involving alterations to rivers and streams to be completed in a sympathetic manner.

- 3.39 Policy GE26 'Water Quality of Waterways' seeks to avoid damage to the waterway environment and enhance the environment value of waterways by improving water quality.
- 3.40 Bullet point (c) of policy LR5 seeks to avoid damage to mature or ancient woodland or result in the significant loss of mature trees.

Habitat Regulations Assessment of Citywide Options for Growth to 2034 (November 2015)

- 3.41 The Habitat Regulations Assessment (HRA) considers whether the proposed growth across Sheffield is likely to affect the conservation objectives of sites afforded statutory protection under the Habitat Regulations. These sites include: South Pennine Moors (SAC), Peak District Dales (SAC) and Peak District Moors (Pennine Moors Phase 1) (SPA).
- 3.42 For the Stockbridge and Upper Don Valley areas, which are closer to the designated sites, the assessment considers a 'limited number of larger urban extensions into the green belt' and 'multiple smaller green belt releases'. Whilst this strategic level assessment concludes such developments may result in 'likely significant effects' to the designated sites, it considers any negative impacts will be sufficiently mitigated in policies within the plan.

4.0 BASELINE EVIDENCE

- 4.1 To complement the ecological submissions produced during the determination period (CD1.14, CD1.17a-c and CD1.31) and to assist further in determining this appeal (by ensuring all relevant information is up to date), further ecological surveys have been completed over the relevant survey periods in 2018 – 2021. For added robustness, the results of these surveys have been subject to additional assessment following the Ecological Impact Assessment guidance provided by CIEEM 2018. This assessment is provided at Appendix 2. The additional survey work includes:

- bat activity surveys (May – September 2018 & May 2021),
- an updated Phase 1 habitat survey (Aug 2020),
- reptile surveys (August – September 2020),
- badger surveys (August 2020),
- an invertebrate scoping survey (August 2020), and
- winter bird, passage birds and breeding bird surveys (December – May 2021).

- 4.2 The results of these surveys confirm there are no significant changes to the habitats or species assemblage recorded during the original surveys completed in 2016 / 2017; nor to the resultant impact of the development upon them.

Statutory Designated Sites

- 4.3 Whilst several statutory designated sites are present in the wider environment surrounding the Site, the only statutory designated sites where potential effects of the proposals are considered likely are the South Pennine Moors Phase 1 Special Protection Area (SPA) / South Pennine Moors (SAC). The Dark Peak SSSI form one of the underlying SSSIs of these designated sites. This SSSI is the close of the complex of SSSI to the Site which form the SSSI designations

- covering the South Pennine Moors Phase 1 Special Protection Area (SPA) / South Pennine Moors (SAC). These designated sites are situated 3.6km west of the Appeal Site (Figure 1).
- 4.4 A summary of the designated features of these designated sites which have relevance to this evidence are outlined below. Full details of the citation for these sites are provided at Appendix 2.
 - 4.5 Annex I habitats that are the primary reason for the selection of this site as a SAC are 4030 European dry heaths, 7130 Blanket bogs and 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles.
 - 4.6 The primary reason for designation of the South Pennine Moors (Phase 1) SPA is the regularly use of 1% or more of the Great Britain population of Merlin *Falco columbarius*, Golden Plover *Pluvialis apricria* and short eared owl *Asio flammeus*.
 - 4.7 Several non-qualifying species are listed in the breeding bird assemblage of the SPA citation. These include: Peregrine *Falco peregrinus*, Lapwing *Vanellus vanellus*, Dunlin *Calidris alpina schinzii*, Snipe *Gallinago gallinago*, Curlew *Numenius arquata*, Redshank *Tringa totanus*, Common Sandpiper *Actitis hypoleucos*, Whinchat *Saxicola rubetra*, Wheatear *Oenanthe oenanthe*, Ring Ouzel *Turdus torquatus* and Twite *Carduelis flavirostris*.
 - 4.8 Habitats and bird species listed on the citation of the Dark Peak SSSI for the most part follow those listed on the SAC / SPA citations. Additional bird species listed on the SSSI citation include those associated with woodlands and rivers including meadow pipit *Anthus pratensis*, tree pipit *Anthus trivialis*, redstart *Phoenicurus phoenicurus*, green woodpecker *Picus viridus*, wood warbler *Phylloscopus sibilatrix*, pied flycatcher *Ficedula hypoleuca*, Dipper *Cinclus cinclus*, grey wagtail *Motacilla cinerea* and common sandpiper *Actitis hypoleucos*.
 - 4.9 Neither the on-site survey nor the records provided from the Sheffield Biological Records Centre (SBRC) or the Sheffield Bird Study Group (SBSG) have identified any of the qualifying species listed on the citation for the SPA within the Site or in the grid squares surrounding the Site.
 - 4.10 In addition to the qualifying species, two species of interest listed on the SPA designation, lapwing, and curlew, have been recorded in the vicinity of the appeal site during the extended survey period. Species of interest only form part of the overall assemblage and outside the boundary of the SPA these species are not afforded a similar level of protection as the qualifying species. Furthermore, those animals breeding outside of the boundary of the designated site do not form part of the overall breeding assemblage of the designated site.
 - 4.11 Records show individual records of curlew for the general grid squares (encompassing a much broader area of 1km) in which the Site is located and two specific records on land west of the Site (Appendix 2: Annex B – Figure 1). Curlew have not been recorded using habitats within the Site in 2016, 2017, 2020 or 2021. Over this period curlew have been recorded flying over the Site and observed using habitats in the wider environment. These results confirm habitats in the Site do not provide a significant resource for the curlew population.
 - 4.12 A maximum of up to two breeding pairs of lapwing, have been recorded using the Site in March and April 2017. As these animals are outside the boundary of the designated site these animals do not form part of the overall breeding assemblage listed on the designation criterion for the SPA (CD1.17b: Table 3).
 - 4.13 Breeding lapwing have not been recorded using the Site in the surveys of 2016 or 2021. Records from the periods 2016 – 2021 demonstrate lapwing is widely distributed in greater numbers on

suitable farmland in the 2km search area west of the Site (Appendix 2: Annex B - Figures 1). When compared to the use of the wider environment, the recorded evidence of use within the Site confirms that the Site does not provide a significant resource for the local lapwing population.

- 4.14 In addition to lapwing, meadow pipit and grey wagtail (listed on the designation criterion for the Dark Peak SSSI) have been recorded using the Site. Whilst low levels of meadow pipit and grey wagtail activity have been recorded, such low levels of use of the Site does not indicate the site provides a significant resource required to sustain the local population of these species or those species using the designated sites.

Non-Statutory Designated Sites

- 4.15 Local Wildlife Sites (LWSs) are a non-statutory designation, which means that unlike statutory designated sites (such as SSSIs), there are no legal requirements for landowners to manage them in any specific way. These sites represent 'Local Sites' as mentioned in Government Circular 06/2005⁴ and as such are a material consideration in the planning process, with most LAs following government guidance, allowing for their protection and enhancement within their planning strategies as a matter of good practice.
- 4.16 Different selection criteria are used in different Local Authorities (LAs) areas, but the selection guidelines generally capture habitat and species listed on local biodiversity action plans and / or those now listed in S41 of the NERC Act 2006.
- 4.17 Within a 1km 'Zone of Influence' (Zoi)⁵ of the Site, several non-statutory designated sites including Fox Glen LWS are present (Figure 1). The proposals only have the potential to affect the conservation status of Fox Glen LWS situated on the northern boundary of the Site. Consequently, other than considering ecological connectivity from Fox Glen to other non-designated sites, no further assessment of the other non-statutory sites present within 1km of the Site is required.
- 4.18 Fox Glen LWS comprises three distinct areas separated by Wood Royd Road and the southernmost section, used as a recreational resource. The largest area of the LWS is south of Wood Royd Road and this section is adjacent to the northern boundary of the Site (Appendix 3). Two smaller areas of the LWS are present north of Wood Royd Road.
- 4.19 The designation criterion for this LWS confirms the following habitats and species are present:
- Running water (UK & LBAP Priority habitat),
 - Upland Oak woodland (UKBAP Priority habitat),
 - Bluebell (LBAP Priority species and protected under Wildlife and Countryside Act),
 - Song Thrush (UKBAP Priority species),
 - Treecreeper (LBAP Priority species), and
 - Other Ancient Woodland Indicator (AWI) species scattered through the site.

⁴ ODP. (2005). *Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system*. London: ODP
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7692/147570.pdf

⁵ Zones of Influence are defined by the CIEEM Guidance 2018. Further definition is provided at Paragraphs 2.4 – 2.8 of the EclA at Appendix 1.

- 4.20 The presence of AWI does not constitute an Ancient Woodland as defined in the NPPF⁶ and the site is not designated as such. Indeed, many of the AWI recorded in Fox Glen (such as Bluebell) are commonly found in woodlands nationwide.
- 4.21 Representations from third parties refer to the presence of Willow tit *Poecile montanus* within Fox Glen LWS. The species is not listed on the citation; albeit that does not rule out its presence. I note that one of the conservation projects being completed in Fox Glen is the creation of habitats suitable for Willow tit. Monitoring surveys completed in Fox Glen LWS by SCC or representatives of SCC, have been completed in 1987, 2002 and 2012, and despite this range of survey dates willow tit has not been recorded on the citation for the LWS.
- 4.22 Records of willow tit have been provided for woodland immediately south of the Stockbridge Bypass approximately 1.1km north east of Fox Glen. Occasional records of willow tit are also present in the open countryside to east, south, and west of the Site. From this I would not rule out their presence but if they do occur in Fox Glen, numbers are not significant and the proposed development would not materially affect the species (nor efforts to introduce it), if it is present.
- 4.23 In terms of ecological connectivity, the Old Haywood (LWS) and Lower Little Don (LWS) are situated north of Manchester Road, which separates and isolates these sites from the northern sections of Fox Glen LWS. Cockshot Hill LWS is situated approximately 370m south of Fox Glen, and connectivity to this site is provided by the field compartment in the south west of the Site, which will remain undeveloped. Existing open countryside provides ecological connectivity to the other LWSs identified on land south and south west of Cockshot Hill LWS (Figure 1).
- 4.24 The Townend Common LNR / LWS is located approximately 516m south west of the Site. The existing built environment forms a barrier to direct dispersal between the Fox Glen and this LNR / LWS. Other LWSs located to the east of Fox Glen are effectively separated and isolated from the Site by the existing built environment of Deepcar and Stockbridge.

Flora

- 4.25 A full assessment of the habitats and the ecological importance of the habitats relating to the Appeal site is provided at Appendix 2. The results of the surveys from 2016 – 2017 are presented in CD1.14 and CD1.17a-c. Over the assessment periods of 2016 - 2017 and 2018 - 2021 (Appendix 2) no ecologically important or sensitive habitats have been recorded on the land physically affected by the proposals.
- 4.26 The dominant habitat across the Site is species poor semi-improved grassland (Figure 2). This habitat is only assessed as important at a **Local** level.
- 4.27 Two veteran trees are present to the north west of the Site, immediately south of Fox Glen (Figure 2 & Appendix 2: Annex E – Drawing Number 7301-T-04 Rev A). Neither of these trees are on land which is directly affected by the development. These veteran trees have been identified as the most valuable ecological receptors on the Site and have been identified as important at a **County** level.
- 4.28 Whilst the other mature and semi-mature trees present at the boundaries of the Site provide some limited structural diversity, these species are common and widespread in the local landscape and are important at a **Site** level.

⁶ NPPF 2019 definition of Ancient Woodland 'An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS)'

- 4.29 Other habitats recorded across the Site include dense/continuous and scattered scrub. These habitats are limited in extent and common / widespread in the local environment and are of no more than **Site** level importance.
- 4.30 One hedgerow is present on the northern boundary of the Site and retained in the proposals. The hedgerow qualifies as a habitat of principle importance as described in S41 of the NERC Act 2006 but does not meet the criteria to be classified as important under the Hedgerow Regulations 1997 (Appendix 2: Paragraphs 3.36 – 3.37). Although the hedgerow does provide a slight edge to Fox Glen, the hedgerow is limited in extent and lacks connectivity to other ecological features. Consequently, this hedgerow is important at no more than **Site** level.
- 4.31 Other field boundary treatments across the Site are dry stone walls and fence lines. From an ecological perspective these features are of no more than **Site** level importance.

Fox Glen Survey (LWS)

- 4.32 To determine an appropriate surface water outfall route through Fox Glen to Clough Dike which would cause minimal disturbance to sensitive ground flora of Fox Glen, two potential routes were initially scoped with the drainage engineer. The route identified as causing minimal disturbance to habitats within Fox Glen was the subject of detailed botanical survey work in May 2018, updated further in April 2021 (Appendix 2: Annex F & CD1.17c – Appendix 5). The surveys focused on recording the general habitats present on the route and identifying habitats and species listed in the citation for Fox Glen.
- 4.33 In 2018 and 2021, the completed botanical assessment confirmed the woodland ground flora is not diverse. The ground flora comprises a small number of common / widespread species dominated by bramble *Rubus fruticosus* agg.. Bluebell *Hyacinthoides non-scripta*, is present in the corridor affected by the outfall but it's distribution is only occasional or rare (Appendix 2: Annex F & CD1.17c: Appendix 5). Although these habitats do not represent those listed of the LWS citation, these habitats are assessed as being of **County level importance** due to their location in the LWS.

Fauna

- 4.34 The presence of badger *Meles meles*, great crested newts *Triturus cristatus*, reptiles, water vole *Arvicola amphibius* and white clawed crayfish *Austropotamobius pallipes* has not been recorded during the surveys completed in 2018, 2020 or 2021 (Appendix 2: Annex H & CD1.17b: Appendix 2). Consequently, no further reference to these species is considered in this evidence.
- 4.35 An invertebrate scoping survey was completed in August 2020 (Appendix 2: Annex I) and is submitted to assist the Inspector determining this Appeal. This survey did not record any Species of Principal Importance (Section 41 species). The only species considered to be a 'Key Species' (i.e., species with rare, scarce, threatened or near threatened conservation status) was the bug *Lygus pratensis* which was categorised as Rare (RDB3) in 1992. Since this point the species has become common and widespread (Appendix 2: Annex I Section 4.3). Therefore, habitats within the Site are of no more than **Site** level importance for invertebrates and on that basis, no further assessment is presented in this evidence.

Birds

Breeding Birds

- 4.36 In 2016 only 23 species of breeding birds have been recorded within the Site. Only eight of these species are identified as being on the Birds of Conservation Concern amber or red list (CD1.16, Appendix C). This number of amber or red listed species does not indicate habitats within the Site are of significance to the local breeding bird assemblage. No designated species or species of interest listed on the SPA citation were recorded.
- 4.37 Over the 2021 survey period only 26 species have been recorded using the site and again only a low number, nine, are notable species listed on the red or amber birds of concern list.
- 4.38 Grey wagtail and meadow pipit are the only species listed on the Dark Peak SSSI citation record using the Site. Over the 2016 and 2021 surveys only small numbers of these species have been recorded indicating the Site does not provide a significant resource for either of these species.
- 4.39 Given the limited breeding bird activity recorded, habitats within the Site have not been identified as a significant resource for species listed on the SPA / SSSI citations. Furthermore, as the overall level of use from breeding birds is limited, the Site has been identified as being of no more **Local level importance**.

Passage Birds

- 4.40 The 2021 survey results show no significant change between since surveys were undertaken in 2016. The 2021 surveys recorded significantly less species than in 2017 (CD1.17: Appendix C). No SPA species were recorded within the Site. Meadow pipit is the only SSSI species observed utilising habitats within the Site in 2016, 2017 and 2021. The number of meadow pipit using the Site have been consistently low and whilst recorded as 'possible breeders' meadow pipit have not been recorded exhibiting any behaviours to indicate breeding.
- 4.41 Given the limited level of use from species listed on the citation of the designated sites over the extended survey period, the Site and the habitats within the Site have not been identified as providing a significant resource for designated species whilst on passage to the designated sites.

Winter Birds

- 4.42 During the period of December 2020 – February 2021 surveys, 30 over wintering bird species were recorded (Appendix 2). This is similar to the level of use recorded over the December 2016 – February 2017 survey period when 31 species were recorded (CD1.16, Appendix D). This level of recorded activity is not considered to be high for a site situated on the urban edge.
- 4.43 The species assemblage identified in the 2020 – 2021 surveys is broadly similar to that recorded over the 2016 – 2017 period. The notable changes are lapwing have not been recorded in the Site during the more recent surveys and the level of meadow pipit activity had significantly reduced with only 1 animal being recorded on the 3rd survey occasion.
- 4.44 Given the level of use recorded over the two survey periods, the Site is of no more than **Local level importance** for over wintering birds.

Bats

Roost Sites

- 4.45 Within the redline of the appeal proposal, the agricultural buildings do not provide suitable conditions to support a bat roost. The only features which may be considered suitable to support a bat roost are associated with a Veteran ash tree present to the north west of the Site. This tree is retained and unaffected by the proposals. Consequently, no further assessment of this receptor is necessary.

Foraging / Commuting Routes

- 4.46 Surveys in 2021 and 2018 confirmed similar species use and activity level using the Site as recorded over the 2016 survey period.
- 4.47 In May 2021 only small number of common pipistrelle have been recorded using the Site. The majority of the activity recorded was adjacent to Fox Glen and along the eastern elevation of the grassland compartment in the south west of the Site which would be retained and enhanced as part of the proposals.
- 4.48 In 2018, four species comprising common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, noctule *Nyctalus noctule* and brown long eared *Plecotus auritus* were recorded. Brown long eared is the only additional species recorded using the Site in 2018. The recorded level of activity from brown long eared is low and associated with the boundary adjacent to Fox Glen LWS.
- 4.49 In addition to those identified to species level, another four groups were recorded on the static detector but only identified to genus level. These included: *Pipistrellus* species, *Nyctalus* species, and unidentified *Myotis* species.
- 4.50 The dominant species identified on both the transect and static detectors is common pipistrelle. This species is common and widespread species, not listed as a priority species on S41 of the NERC Act 2006.
- 4.51 The static detector survey results recorded the highest level of activity on the northern boundary in spring, the north eastern boundary in summer and centrally within the site in autumn. Common pipistrelle is the dominant species recorded on all these static detector surveys. The level of recorded activity does not indicate the Site or boundary habitats provide a significant foraging resource for the local common pipistrelle population or the other species recorded over the survey period.
- 4.52 The static detector deployed in May 2021 confirmed common pipistrelle is the dominant species using the Site, but the level of use again does not suggest the Site form a major component of the overall foraging range rather part of the range for this species. Only low levels of activity from other species have been recorded which correspond with result from other survey period.
- 4.53 The recorded activity is typical for a site situated on the urban edge. The level of use is not exceptional, nor does it indicate the Site provides a significant resource for any of the species recorded. Consequently, the Site is assessed as being of no more than **Local level importance**.

Brown Hare

- 4.54 The SBRC holds records of brown hare *Lepus europaeus* on land to the south, south east and west of the Site (Appendix 2: Figure 9). Of the 93 records provided, 90 have been produced since 2017 but only one of the 29 records provided since 2017 is from the Site.
- 4.55 Over the extended survey period, none of the surveyors from FPCR observed brown hare using the Site. This is despite surveyors being present on the Site just after dawn and just after dusk.
- 4.56 The majority of the grassland is heavily grazed by horses and as such provides limited habitat for brown hare. The southern field is cut for hay and would therefore provide an extremely limited resource for brown hare following the hay cut.
- 4.57 Given this assessment, the Site is only of **Local Level importance** for the brown hare population.

5.0 ECOLOGICAL INFLUENCES & DESIGN

Ecological Influences

- 5.1 The South Pennine Moors (SAC), the Peak District Moors (South Pennine Moors Phase 1) (SPA) which includes the Dark Peak SSSI is situated 3.6km to the west of the Site (Figure 1).
- 5.2 As the proposals are not directly connected with or necessary to the management of a European site, SCC completed a Habitat Regulation Assessment (HRA) screening assessment pursuant to the Conservation of Habitats and Species Regulations 2017 (CD2.25). The relevant conservation designations listed on the National Site Network⁷ are South Pennines Moors Special Area of Conservation (SAC) and the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area (SPA). The underlying Sites of Special Scientific Interest (SSSIs) for these sites are the Dark Peak SSSI, Goyt Valley SSSI, Leek Moors SSSI and Eastern Peak District Moors SSSI.
- 5.3 The HRA screening exercise considered the potential effects of the proposals on the designated sites' conservation objectives and their significance. Potential pathways assessed includes those associated with increase in population, visitor pressure (and or any other recreational pressure), domestic pets, local and construction traffic, and air quality. This assessment also reviewed the potential effects arising from the loss of supporting habitats (or functionally linked land (FLL)) for species listed on the citation of the SPA or SAC. In accordance with the requirements of the Habitat Regulations, the potential effects of the larger 93-unit scheme were considered alone and in combination with other plans or projects.
- 5.4 SCC's HRA concluded that 'likely significant effects' on the conservation objectives of the designated sites could be screened out without any further assessment. This position has been agreed with Natural England (NE) and NE do not object to the proposals, concluding that it would not have likely significant effect on the designated sites (Correspondence Dated: 30 January 2018 (CD2.8) and 29 March 2018 (CD2.9)).
- 5.5 The agreed position between the Appellant and the council is development of the 93-unit scheme or the smaller 85-unit scheme will not result in 'likely significant effects' to the conservation

objectives of the site listed on the National Sites Network either alone or in-combination with other plans or projects (CD6.11: Paragraphs 2.13 – 2.14).

- 5.6 The Site is not designated as a local site as defined in Paragraph 174 of the NPPF (February 2019). Fox Glen LWS is situated adjacent to the northern boundary of the Site (Figure 1). Consideration of the potential effects of the development to this non-statutory designated site and mitigation have been considered through the determination of the planning application and addressed by the proposals.
- 5.7 The dominant habitat in the Site is species poor semi-improved grassland (Figure 2). This habitat is of low ecological importance. Other habitats present within the Site are limited to a single hedgerow and small areas of scrub / tall ruderal habitats. The proposals will affect the species poor semi-improved grassland and the scrub / tall ruderal habitats, but the hedgerow would be retained and enhanced.
- 5.8 Two Veteran Trees are present to the south of Fox Glen LWS (Appendix 2: Annex E – Drawing Reference 7301-T-04 REVA). These Veteran trees are within the redline, but outside the built development and the buffers recommended by NE would be provided (Appendix 2: Annex E – Drawing References 7301-T-06 REVA & 7301-T-09 REVA). These Veteran trees provide an ecological resource and have influenced the design.
- 5.9 Detailed species survey work completed at the Site confirms no existence of any statutory ecological constraints from any species, including badger, great crested newts, water vole, white clawed crayfish, or reptiles.
- 5.10 The bird assemblage recorded during the updated breeding and winter bird surveys are similar to those previously recorded and are only classified as local level importance. Several species listed of the Red / Amber Bird of Concern List and listed as priority species in S41 of the NERC Act 2006 have been identified. Again, the recorded number of these species is low and as such from a population level use of the Site does not pose a material ecological constraint.
- 5.11 Bat survey work completed across the Site has not identified any potential roosts which would be affected by the proposals. The activity survey and static detector surveys only identified common and widespread species.

Design

- 5.12 The proposals retain the main ecological receptors and where potential effects have been identified, the proposals have been altered and/or appropriate mitigation proposed. The proposals provide appropriate buffers between the built form and the LWS. In addition, the proposals also provide grassland enhancements in the retained field compartment situated within the south west of the Site, located to south of Fox Glen. The implementation of these measures avoids prejudicing connectivity between Fox Glen LWS and the wider countryside south of the Site.
- 5.13 To minimise the potential ecological effects of the proposals, and common to the original and revised Illustrative Masterplans, the retained ecological receptors would include:
- The Veteran trees situated to the south of Fox Glen (LWS);
 - 2.44ha of grassland enhancements across the Site including the significant area which is retained and enhanced in the south west of the Site;
 - The existing hedgerow and the majority of the dry-stone walls; and

- The mature boundary trees.
- 5.14 Mitigation and enhancements to minimise potential effects and provide betterment are shown on the submitted Green Infrastructure Indicative Principles Plan (Drawing Reference: 7301-L-02 D). These would include:
- enhancements through re-seeding and long-term management of the retained grassland in the south west of the Site,
 - creation of new area of native planting adjacent to Fox Glen,
 - the creation of native species scrub planting,
 - the creation of species rich grassland,
 - the creation of wetland features in the balancing facility within the Site,
 - the creation of new native species rich hedgerows,
 - the implementation of scattered native species trees throughout the GI,
 - the use of a sensitive lighting scheme to avoid potential effects to the local bat population,
 - the implementation of bat and bird boxes throughout the proposed development, and
 - the creation of a new open channel from the balancing facility to Clough Dike.
- 5.15 The proposed GI will provide new areas of terrestrial habitats which will benefit a wide range of protected species including bats, birds and reptiles. All the habitats retained or created within the Site will be subject to long term management in accordance with the requirements of a Biodiversity Management Plan.
- 5.16 The design features outlined above would also apply to the 'Revised Illustrative Masterplan (April 2021)' and the Green Infrastructure Indicative Principles Plan has been updated accordingly (Drawing Reference: 7301-L-02 E). From an ecological perspective the only significant change is the additional of an additional attenuation facility.
- 5.17 Unlike the main balancing facility, situated to the north of the Site, which is designed to retain a degree of standing water and a wetland area, the additional balancing facility is designed to be a wet and dry facility only retaining water for short periods of high rainfall. The resultant conditions in the additional balancing facility will allow the development of different grassland communities providing different microclimates that will support a range of different species, Therefore, the revised proposals will provide further betterments from an ecological perspective.

6.0 ASSESSMENT OF POTENTIAL EFFECTS AND MITIGATION FOR HABITATS / SPECIES

- 6.1 A detailed assessment of the potential construction and operational effects to relevant ecological receptors is provided in Appendix 2. Further detailed assessment of the potential effects of the proposals on Clough Dike and downstream receptors are presented in the submitted Water Framework Directive Assessment (CD1.17c: Appendix 4). The potential effects to Fox Glen LWS through the implementation of the drainage channel are assessed in 'Fox Glen Woodland Survey of Potential Drainage Route' (CD1.17c: Appendix 5). Updates to both of these documents have been produced for the purposes of the appeal and are provided at Appendix 2: Annexes F & J.

- 6.2 To assist the Inspector, the following provides a summary of the potential effects and the proposed mitigation. This assessment also applies to the 'Revised Illustrative Masterplan (April 2021)'.

Statutory Designated Sites

- 6.3 Despite NE and SCC concluding that 'no likely significant effects' to the conservation objectives of the South Pennine Moors Phase 1 Special Protection Area (SPA) / South Pennine Moors (SAC) from the proposals are expected (see paragraphs 5.2 – 5.5 above), third parties have raised concerns relating to bird species listed as associated species on the SPA / SSSI citations. These species include: Curlew, lapwing, and meadow pipit.
- 6.4 Curlew have not been identified using the Site. Curlew have been observed flying over the Site and using habitats in the wider environment. This not unexpected as records show small numbers using the wider countryside surrounding the Site. The survey evidence confirms the Site does not provide a significant resource for curlew and loss of the habitats will not affect curlew or distribution locally.
- 6.5 Lapwing have only been observed using the south western field compartment in 2017. This level of use confirms the Site does not provide a significant resource for the local lapwing population. This field compartment is retained as part of the appeal proposal, and enhancements comprising re-seeding, long term management and the implementation of a wader scape are proposed. This level of mitigation follows NE's recommendations that the provision of a suitable amount of replacement habitat should be considered where species listed S41, or the red and amber bird of concern list are affected⁸ and long-term effects to the local lapwing population have been assessed as **Negligible**.
- 6.6 Throughout the extended survey period, the number of meadow pipit recorded have been consistently low and only one flock of meadow pipit have been observed in 2017. The numbers of grey wagtail using the Site have also been consistently low. Despite such low levels of use, the enhancements and long-term management of the south western field compartment will provide suitable habitats for these species and any long-term effects to the local population will be **Negligible**.

Non-Statutory Designated Sites

- 6.7 Over the determination period, SCC and third parties raised concerns relating to Fox Glen LWS. The following considers the potential effects of the proposals on Fox Glen LWS from physical works within the woodland, the works proposed within the Site over the construction period and the operational effects of the proposals.

Works within Fox Glen (LWS)

- 6.8 The only physical works proposed within Fox Glen LWS comprises the implementation of a drainage channel linking the balancing facility and Clough Dike. This drainage channel has been designed to minimise any negative affects to trees and minimise incursion into the root protection zone of the trees within the woodland (Appendix 2: Annex E). The woodland and understory is

⁸ <https://www.gov.uk/guidance/wild-birds-surveys-and-mitigation-for-development-projects> (Accessed on: 24.04.2021)

dominated by bramble. Male fern and bluebell are the only species listed on the LWS citation found occasionally within the potential working corridor (CD.1.17c: Appendix 5).

- 6.9 In consultation with Sheffield's Parks Department, the drainage outfall has been designed as a natural feature which will add diversity to Fox Glen LWS. Previous recreational enhancements in Fox Glen have included the implementation of artificial structures including urinals and bathing pools. Whilst, Fox Glen has naturalised since these were in use, the implementation of a naturalised feature in the form of the open drainage channel and the rock cascade would not detract from the overall value of the LWS.
- 6.10 Construction of the drainage channel will inevitably result in some limited disturbance of ground flora. Any disturbance would be temporary as the bramble dominated habitats effected would recover quickly on completion of the works.
- 6.11 If the Appeal is allowed, to minimise temporary damage over the construction period, further detailed habitat mapping of the working area would be completed over the period of April – May. This habitat mapping would identify the location of bluebells or sensitive woodland ground flora to allow translocation into other areas of the woodland prior to commencing work. This would be controlled by a condition for a Construction and Environmental Management Plan (CEMP). A draft CEMP has been prepared and is appended to Mr Harvey's proof of evidence, though I have inputted into its content. It is in draft form and I anticipate its content would evolve at detailed design stage, should the appeal be allowed (Kriston Harvey PoE: Appendix H).
- 6.12 The CEMP also provides details of appropriate working methods such as a hand digging, timing works to avoid the main bird nesting period and period of heavy rainfall, removal of excess material from the woodland and control measures to avoid accidental pollution events. With the implementation and monitoring of the CEMP any potential construction effects will in the long term be **Negligible**.
- 6.13 The Steel Valley Project Group are undertaking conservation works in Fox Glen. These works include the creation of natural dams along Clough Dike to improve habitats for potential use by willow tit. The proposed new drainage connection to the Clough Dike will be positioned to avoid the completed conservation works. Therefore, if willow tit does occupy suitable habitat in Fox Glen, simply restricting works to outside the bird breeding season will ensure any potential effects to this species are **Negligible**.
- 6.14 The Water Framework Directive Assessment (WFDA) (CD1.17c: Appendix 4) undertaken as part of the planning application process provides a standard methodology of assessing the potential effects of works to watercourses and downstream receptors. The assessment considers all relevant elements of watercourse including water chemistry and ecological components. The proposed drainage connection and eventual surface water discharge have been assessed using this standard methodology. This assessment (which the committee report refers to as 'thorough and well set out') concludes following the implementation of mitigation including the proposed balancing facilities within the Site any potential effects to the Clough Dike will be **Negligible**. This has been agreed within the SCC in the Ecological SoCG (CD6.11: Paragraph 2.17).

Construction Operations within the Site

- 6.15 The application of standard control measures detailed in the draft CEMP, the content of which would be subject to approval by SCC via discharge of the relevant planning condition, will avoid

any temporary construction effects arising from dust deposition or accidental pollution events which could theoretically affect the conservation status of Fox Glen. Following the application of such methods the potential effects are assessed as being **Negligible**.

- 6.16 The Veteran trees to the north west of the Site would be retained. No works are proposed in the Root Protection Area (RPA) which is 15 times larger than the diameter of the trees. To ensure protection of these trees, prior to commencement of development standard tree protection fencing and signage would also be erected around the RPA of the trees. With the application of such methods and other standard mitigation outlined in the CEMP the potential effects would be **Negligible**.
- 6.17 The majority of proposals have been restricted to land outside the RPAs of the trees on the edge of Fox Glen. This RPA has been calculated from the largest stem diameter of the trees on the woodland edge (Appendix 2: Annex E: Drawing Reference 7301-T-07 REVA & 7301-T-10 REVA). This design ensures protection of the woodland edge and with the application of standard tree protection / signage provided during the construction period and detailed in the CEMP, any potential effects to trees on the woodland edge would be **Negligible**.
- 6.18 On the revised Illustrative Masterplan (April 2021) there are two minor areas adjacent to Fox Glen where the proposals shows the turning head touching the RPA's on G4, T64(A) and T66(A), works physically within the RPA can be avoided. Through the implementation of standard arboricultural techniques, detailed in the CEMP, any potential effects to the longevity of these trees would be avoided and any residual effects would be **Negligible**.

Operational effects of the proposals

- 6.19 Over the operation period, potential effects to Fox Glen LWS include isolation to other LWSs in the wider environment; increased recreational pressure; and increased disturbance. Whilst these potential effects can be addressed by appropriate design, the following provides further consideration of these matters.

Ecological Connectivity (Isolation)

- 6.20 The Fox Glen LWS citation indicates the designated site provides connectivity to other LWSs. Ecological connectivity to other LWSs within 1km of the Site is assessed at Paragraphs 4.23 – 4.24 above. This assessment demonstrates ecological connectivity to the Townsend Common LNR / LWS and other LWSs situated in the existing built environment north / east / west of the Fox Glen is currently compromised (Figure 1). The proposed development will not materially affect connectivity to these sites.
- 6.21 Several additional LWS's are present in the open countryside south of the Site. The existing intensive agricultural use of the Site does slightly restrict ecological connectivity to these sites. The proposals remove the intensive agricultural use, providing ecological enhancements and long-term management of the south western field compartment. This field compartment is situated south of Fox Glen and following the implementation of the proposed grassland enhancement and long-term management connectivity to other LWSs south of the Site would be improved.
- 6.22 Within the Site, connectivity to the retained land is maintained through the creation of a buffer. Whilst there is a slight restriction in the north of the Site, it should be noted that the current

agricultural use runs immediately adjacent to Fox Glen, thus ecological connectivity is currently compromised and, in this respect, significant effects to ecological connectivity are unlikely.

- 6.23 Mitigation strengthening ecological connectivity at the interface with Fox Glen is proposed. This would include the implementation of native planting along the boundary of the development and the creation of species rich grassland. The provision of these habitats will provide improvements and ensure connectivity to retained land is maintained.
- 6.24 Considering the current land use, the implementation of the measures outlined would provide **long term minor positive effects** to ecological connectivity.

Recreational Pressure

- 6.25 The Fox Glen citation confirms the site is used as a recreational resource and the footpaths are in good order. These well-defined and well used footpaths are present throughout the publicly accessible area of Fox Glen, and as such it is clear that Fox Glen is already subject to recreational disturbance. It is intended to be publicly accessible.
- 6.26 Paragraph 8.5.4 of SCC's HRA confirms Stocksbridge is served with a range in quality and accessibility of public open space (Parks and Gardens, Natural & Semi-natural Greenspace and Amenity Greenspace) and Fox Glen is shown as one of these accessible green spaces (CD2.25). Therefore, SCC accept Fox Glen is intended to be used as a recreational resource locally and indeed this follows the requirements of policies CS37 and GE10.
- 6.27 Development at the Site would inevitably increase the number of people using Fox Glen as a recreational resource to a degree but given the existing well managed infrastructure, which we understand is maintained by Sheffield City Parks Department, and current level of use, any minor increase of recreational use of the woodland would not result in any additional material effects to the conservation status of a woodland within an existing urban setting. Consequently, without the implementation of additional mitigation any potential affects would be **Negligible**.
- 6.28 Despite this, mitigation comprising the provision of homeowner information package would be provided. This package would provide the residents information on the ecological sensitives in Fox Glen and appropriate advice to minimise potential effects to the woodland.

Disturbance

- 6.29 Adjacent to Fox Glen, the scheme has been designed to front onto the woodland. This design provides a form of natural surveillance and reduces the potential for anti-social behaviour in the LWS.
- 6.30 Given the geographical position, fauna in the woodland will already be subject to a level of predation and the proposals would not result in any material increases to the existing pressures.
- 6.31 Although there is no scientific evidence confirming bird populations are affected by cat predation⁹, buffer planting is accepted as a standard measure for reducing predation from new pets. This would be provided adjacent to Fox Glen to minimise potential predation. Given the RSPB's research and the mitigation proposed, any increase in predation above and beyond the existing

⁹ <https://www.rspb.org.uk/birds-and-wildlife/advice/gardening-for-wildlife/animal-deterrents/cats-and-garden-birds/are-cats-causing-bird-declines/>. (Accessed on: 24.04.21)

level is unlikely to materially affect existing populations using the LWS. The potential effects have been assessed as **Negligible**.

- 6.32 Fronting the proposed housing onto the woodland edge and the provision of buffer planting along the edge of the scheme are standard design features that are used to minimise light spill onto sensitive receptors and create dark corridors. With the application of such measures any residual effects from light spill would be **Negligible**.
- 6.33 To further avoid effects of light spill, all new dwellings along the western elevation of the Site would be fitted with low level external lighting at the ground floor and any lighting provided along the private drive would be low-level bollard lighting. The provision of these additional measures will serve to ensure the potential effects of light spill into the Fox Glen are **Negligible**.

Flora

- 6.34 Habitats within the Site have been assessed as being of local to site level importance. None of the habitats are of particular ecological interest but the potential effects would be minimised through retention of the hedgerow, the majority of the dry-stone walls, existing mature trees, and the extensive field to the south west of the Site.
- 6.35 Mitigation provided by the proposals would include enhancements to the retained south western field compartment, the provision of wetland in the balancing facility and the creation of wet / dry grassland in the second balancing facility shown on the 'Revised Illustrative Masterplan (April 2021)'. Further there would be creation of new areas of species rich grassland and the creation of new native species hedgerows / area of native species planting. Following establishment of these habitats and the application of long-term management of these habitats, **long term moderate positive effects** to biodiversity have been assessed. This positive assessment has been quantified through use of the DEFRA metric (Version 2.0) and further details of this assessment are provide in Section 7.

Fauna

Breeding & Winter Birds

- 6.36 No significant assemblages of breeding or winter birds were recorded during the surveys.
- 6.37 Development of the Site would result in some minor changes to the assemblage of breeding and winter birds using the Site. The creation of an urban environment with GI and garden habitats would result in **minor positive effects** to a number of the species recorded including bullfinch, redwing, fieldfare, mistle thrush, starling, song thrush, dunnock, and house sparrow.
- 6.38 Minor negative effects to a small number of species requiring open farmland would be expected. However, the provision of the extensive area of enhanced grassland in the south west of the Site does provide a suitable amount of replacement habitat for such species and any residual effects to the local breeding bird assemblage would be **Negligible**.
- 6.39 In addition to the mitigation proposed in the scheme, the application of standard vegetation removal techniques outside of the bird breeding season will further minimise any potential to the local breeding bird population.

Bats

- 6.40 The species assemblage using the Site is dominated by common and widespread species. The main foraging areas and commuting routes are retained in the Appeal proposals and as such the potential effects to use have been assessed as **Negligible**.
- 6.41 The foraging or commuting activity identified across the Site is dominated by common and soprano pipistrelle which are common and widespread in an urban setting. The construction of minor infrastructure roads through the Site would require the creation of gaps along the dry-stone walls but all remaining lengths of the dry-stone walls are retained in the proposed Site GI. Retention of the dry-stone walls in GI corridors will maintain existing commuting routes used by the local bat population. In addition, as the dominant species recorded using the Site are common and soprano pipistrelle, species which have adapted to using the urban environment, small breaks in existing commuting routes would not result in significant adverse effects to the local populations.
- 6.42 Significant enhancements for the local bat population would be provided by the proposals. These would include:
- the retention and enhancement of the south western field compartment,
 - the creation of new native species hedgerows and areas of species rich grassland and
 - the creation of wetland in the balancing facility;
 - and the creation of additional microclimates in the second balancing facility shown in the 'Revised Illustrative Masterplan (April 2021)'.
- 6.43 On maturity, these habitats would provide an improved foraging resource for the local bat population and with the commitment to implementing a low-level lighting design across the Site, the potential effects to the local bat population have been assessed as **long term minor positive effects**.

Brown Hare

- 6.44 The short-grazed nature of the existing habitats in the Site are sub-optimal for brown hare and unmitigated loss of these habitat significant effects to the population would not be expected. The retention and long-term management of the south west field compartment provides adequate mitigation for the brown hares **long term minor positive effects** are expected.

Invertebrates

- 6.45 The scoping survey confirmed habitats within the Site do not provide a significant resource for invertebrates. Therefore, the potential effects of habitat loss from the Site have been assessed as **Negligible** but through the implementation of the range of habitat enhancements proposed across the site **minor positive effects** to a range of invertebrate are predicted.

7.0 BIODIVERSITY NET GAIN (BNG)

- 7.1 There are no current local plan policies requiring development proposals to demonstrate a net gain to biodiversity. However, Paragraph 175 of the NPPF recommends that development should

aim to provide measurable net gain to biodiversity. It does not suggest a level of net gain that developments should provide.

- 7.2 Once the Environment Bill gains royal assent, there is likely to be a legal requirement for most development projects to provide a minimum level of net gain for biodiversity (currently proposed as 10%) measured using the DEFRA metric. The level of net gain is yet to be confirmed.
- 7.3 The DEFRA metric is a spreadsheet which calculates the baseline value of habitats within sites, the effects of development proposals without mitigation and finally the overall effects of proposals following the implementation of mitigation. The final effects of proposals are calculated on habitat types lost and provided, connectivity, area location and complexity. The current DEFRA metric (Version 2) is still in the testing phase and it is expected that Version 3 will be released during 2021 in advance of the Environment Bill.
- 7.4 The proposals have been designed to provide a net gain to biodiversity and both the updated masterplan submitted in Jan. 2020 and the revised proposal submitted to this appeal markedly exceed the minimum 10% requirement. The scheme would comply with the basic 'net gain' requirements outlined at Para 175 of the NPPF.
- 7.5 Assessment using the DEFRA Metric (Version 2) confirms the scheme proposals submitted in Jan. 2020 result in a material net gain of 6.78 habitat units (a net gain of 51.63%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%). The net gain provided by the 'Revised Illustrative Masterplan (April 2021)' confirmed through assessment using the DEFRA Metric (Version 2) a slight increase over the previous assessment with a net gain of 7.0 habitat units (a net gain of 53.26%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%).
- 7.6 These gains demonstrate that significant benefits for biodiversity would be provided by the proposals. In our experience working on schemes of this size such significant gains are rarely achieved. Technical notes confirming the BNG assessment is provided at Appendix 2: Annex K.

8.0 CONSULTATION RESPONSES FROM STATUORY ECOLOGICAL CONSULTEES

Consultation Responses

- 8.1 This section provides a summary of the consultation responses from statutory consultees relating to matters of Ecology & Nature Conservation, received during determination of the planning application. Appendix 1 provides the chronology of submission and consultation responses.

Natural England

- 8.2 During the determination period NE provided two consultation responses (CD2.8 & CD2.9).
- 8.3 Natural England's initial consultation response to the planning application, dated 30 January 2018, confirmed a position of 'no objection' (CD2.8). Natural England confirmed the proposals would not result in likely significant effects to the relevant designated sites. The response advised SCC, as the Competent Authority (CA), of their duty under the Habitat Regulations to complete the screening part of the overall HRA process. It was NE's opinion that 'likely significant effects' on species listed on the SPA citation could be ruled out using the bird survey information submitted with the application. This correspondence also confirmed that it was NE's opinion that 'likely significant effects' from increased recreational pressure could also be discounted.

8.4 Over the determination period, SCC queried the scope of the HRA with NE. NE's consultation response dated 29 March 2018 (CD1.16) confirmed their opinion of 30 January 2018 still applied and they had no further comments to make. They referred the LPA to their position of 'no objection' provided on 30 January 2018.

Sheffield Ecology Unit (SEU)

8.5 Following the applicant's ecological submissions to SCC in November 2017 (CD1.14), SEU originally objected to the proposals (Correspondence Dated: 19 January 2018, CD2.16). This objection required further clarification on several matters and additional ecological information covering several species / groups. The applicant provided the clarification and additional ecological information in October 2018 (CD1.17a-c). Pages 51 – 52 of the Committee Report confirms on receipt of this information, SEU confirmed the submitted information was adequate information to remove the original objection dated 19 Jan 2018 (CD1.7). This position is reflected in the ecological SoCG (CD6.11: Paragraph 3.2).

8.6 The summary of the response provided in the committee report confirmed:

- it is not anticipated that there will be any site level impacts on brown hare,
- no waterbodies suitable for breeding Great Crested Newts (GCN) were located at or within 500m of the site. Therefore, GCN are not a statutory constraint to proposals,
- Sheffield Biological Records Centre (SBRC) hold no records of water vole from on or nearby the site,
- there is a low potential for white clawed crayfish to be present in the beck in Fox Glen (Clough Dike),
- the bat survey methods are acceptable and there is no objection relating to bats, and
- with respect to invertebrates, the species considered were butterflies and moths and no species of high conservation value were mentioned. Mitigation measures would mean that impacts or "effects" would be avoided.

8.7 Following receipt of the Ecological Update and Review produce to support the revised proposals (dated 17 January 2020, CD1.18), SEU provided additional consultation responses (Dated: 05 June and 26 June 2020, CD2.17 and CD2.18). These concluded that, although the updated Phase 1 Habitat Survey was carried out at a sub-optimal time of year (January 2020), it was accepted that the Site is still predominantly low-value poor semi-improved grassland and agreed the habitats present within the Site were 'largely unchanged'.

8.8 In relation to potential effects on Fox Glen Area of Natural History Interest (ANHI) and LWS, SEU confirmed there were concerns regarding the buffer zone to Fox Glen (LWS) and potential isolation of the LWS. SEU recommended clarity be provided regarding the implementation of appropriate buffer zones, ecological mitigation, and a commitment to BNG, following which it concluded the development would be acceptable in principle.

8.9 On the basis of the submitted information, the Committee Report confirmed SEU had accepted the current survey work. However, the Committee Report noted that if the development did not proceed within 12 months, a planning condition was recommended to secure further survey work before development commences and this should be carried out within the optimal survey period.

- 8.10 During preparation for this Appeal, the Appellant has provided SEU a copy of an updated Phase 1 Habitat Survey completed in August 2020 during the optimal survey period (CD1.31). This survey confirmed no material change to ecological conditions within the Site. Following receipt of the update information, it is now common ground between the main parties that all relevant updated surveys have been completed and there is no requirement for a planning condition requiring additional survey work (CD6.11: Paragraph 2.4).

Peak District National Park Authority

- 8.11 As noted in the Council's Committee Report (page 73), the Peak District National Park Authority stated they have no objections to the development as they consider it would not impact adversely upon the setting of the Peak District National Park (CD1.7).

9.0 CONSIDERATION OF THIRD-PARTY SUBMISSIONS

Sheffield & Rotherham Wildlife Trust

- 9.1 Three consultation responses were received from the Sheffield & Rotherham Wildlife Trust (hereafter referred to as the 'Wildlife Trust'). The principal reasons for the objections can be summarised as:

- 1 – the Site is not allocated for housing,
- 2- there are reports of lapwing, curlew and bats using the site and an inadequate assessment of potential effects,
- 3 – isolation of Fox Glen and the potential effects of reduction of water level affecting the willow tit project, and
- 4 – biodiversity net gain has not been addressed.

- 9.2 The following provides further consideration of these issues.

Issue 1 – Housing Allocation

- 9.3 This is simply a planning matter, and an in-depth consideration of these matters are provided by Mr Bolton.

Issue 2 – Lapwing, Curlew and Bats

- 9.4 When assessing matters relating to lapwing, curlew, and bats, it is important to consider the extensive survey work completed at the Site over a number of years and the extensive data set which has been gathered for the various species.
- 9.5 The survey work has not recorded curlew using the Site, merely flying over it. This data simply confirms the Site does not provide a significant resource for curlew and the proposed development will not materially affect the local curlew population.
- 9.6 In terms of lapwing, only two breeding pairs have been recorded using the Site in 2017. This species was not recorded in 2016 or 2021. Given the extensive nature of the survey work and the widespread nature of lapwing locally, the presence of two breeding pairs of lapwings during one season does not suggest the Site is important for lapwing or that the loss of habitats to development will result in significant effects to the population locally. Irrespective of the

insignificance of the Site to lapwings, mitigation and improvements comprising grassland management and the implementation of a wader scrape would be provided in the south western field. This level of mitigation is in accordance with the requirement of NE standing advice.

- 9.7 Finally, the survey work has found that the assemblage of bats using the Site was dominated by common and widespread species which are unlikely to be affected by the proposals. The habitat enhancements proposed in the development would increase the overall diversity of habitats in the Site and this is likely to increase the overall foraging resource for the local bat population. With the implementation of a sensitive lighting scheme, the proposals are unlikely to result in long term negative affects to the population.

Issue 3 – Isolation of Fox Glen & Water Levels

- 9.8 Detailed consideration of the potential isolation of Fox Glen is provided at paragraphs 6.20 – 6.24 above. The completed assessment concludes that the proposals provide adequate mitigation which is likely to improve ecological connectivity to the LWSs south of the Site and sensitive treatment of the northern edge of the development provides an adequate corridor that facilitates connectivity to the north of the Site.
- 9.9 Notwithstanding the fact willow tit have not been recorded in Fox Glen, the primary water source feeding Clough Dike is ‘issue’ at the southern elevation of Fox Glen. This issue is supplied by a wide ground water catchment area and as such the proposals will not affect this source. This is not affected by the proposals. Therefore, proposed development is unlikely to affect the water level along Clough Dike in any material manner that would affect the success of the willow tit conservation project.

Issue 4 – Biodiversity Net Gain

- 9.10 Sheffield does not have a net gain policy and the submission of a BNG assessment was not requested until late in the determination period.
- 9.11 Although there is no policy basis for requesting the completion of this assessment, the Appellant has committed to providing substantive biodiversity net gain as part of the appeal proposals. A BNG assessment has been completed (Appendix 2: Annex K). This assessment confirms significant net gain for habitats and linear features are provided by the revised scheme submitted in Jan 2020 and the ‘Revised Illustrative Masterplan (April 2021)’ which has been submitted to this Appeal.

Stocksbridge Town Council

- 9.12 As part of the overall consultation response, the potential impact on nature conservation interests and biodiversity opportunities, relating to Fox Glen were cited. The detailed response clarified the main concerns related to the potential effects of the proposals on a local conservation project within Fox Glen.
- 9.13 As discussed at paragraphs 6.8 – 6.33 the proposals have provided adequate measures and mitigation to avoid potential effects on Fox Glen or the viability of the conservation project in Fox Glen.

Other Third-Party Representations

9.14 Over the determination period and since the appeal was logged, additional third-party comments relating to ecology and nature conservation have been received. These are summarised in the Council's Committee Report (p27). The main matters raised by interested parties are:

1 – Impacts to Fox Glen through:

a – the implementation of the drainage channel,

b - recreational impacts & disturbance,

c - cat predation,

d - affects to Willow tit,

e – effect of lighting,

f - effects to surface and ground water flows.

2 – A diverse range of species use the site including lapwing and curlew;

3- Impacts to a wildlife corridor; and

4 – Full Ecological survey have not been completed.

9.15 These matters are considered in further detail below.

1- Impacts to Fox Glen

9.16 The submitted Water Framework Directive Assessment assesses the potential effects of the implementation of the drainage channel on the Clough Dike (CD1.17c: Appendix 4) and an assessment of potential effects to the flora and fauna along the proposed drainage channel is provided in CD1.17c: Appendix 5. These assessments concluded that these proposals will not affect the conservation value of either Fox Glen or Clough Dike. This is an agreed position between the Appellant and SCC.

9.17 Fox Glen is an existing recreational recourse with a well-defined and managed network of paths throughout accessible area of the woodland. Whilst the proposals will likely lead to some increased use of the woodland, any increase would not be material in the context of an urban woodland. Although no material effects are expected, the proposals including a range of measures to encourage sensitive use of the woodland and provide surveillance. Therefore, no material effects to the status of the woodland are expected.

9.18 As discussed at Paragraph 6.31, there is no scientific evidence that cat predation will affect the conservation status of species using the woodland. Despite this, standard measures including the implementation of native species scrub planting are proposed to reduce any such affects.

9.19 Willow tit have not been identified in the woodland. If willow tit is present in small numbers, the proposals will not affect the enhancements provided for willow tit in Fox Glen and any minor disturbance during the construction period would not affect small numbers which may occasionally use the woodland.

9.20 A low-level lighting scheme would be provided across the proposals and further measures including the implementation of hedgerows and other planting will provide natural screens to any street lighting proposed in the development. Through the application of such measures, the potential effect of lighting on Fox Glen will be avoided.

- 9.21 The hydrology regime supplying the Fox Glen is provided by surface and ground water sources. Development of the Site will result in partial removal of surface water supply to Fox Glen. However, it is evident from the extent of the existing vegetation present on the western slope of Fox Glen, adjacent to the existing built development, that the ground water supply is one the main hydrological supplies for the habitats. Fox Glen and Clough Dike valley cut into a multi-layered aquifer system and seepages from the aquifer to Fox Glen are known. Consequently, the partial removal of the surface water is unlikely to result in significant effects to habitats on the eastern slope of Fox Glen.

2 – Reference to a diverse range of species using the site including lapwing and curlew

- 9.22 The ecological surveys completed over the period of 2016 – 2021 have not recorded any significant ecological interest at the Site and as outlined in this PoE, including relevant ecological supporting information, mitigation and enhancements for the habitats and species recorded would be provided.
- 9.23 Over the surveys, Curlew have not been recorded using the site and there are no records of curlew using the site. Throughout the surveys only two pairs of lapwings have been recorded using the south western field compartment in 2017 and no records of lapwing have been provided for the site. These results confirm the Site does not provide a significant resource for lapwing. However, the south western field compartment would be retained and enhanced for lapwing and other species, thus proportionate mitigation and enhancement for this species is provided.

3 - Impacts to a wildlife corridor

- 9.24 As outlined at Paragraphs 6.20 – 6.24 links to existing wildlife sites are already compromised by the existing urban environment. Through the implementation of a buffer adjacent to Fox Glen, and the retention and enhancements of the south western field compartment the link to LWSs south of the site would be maintained. Consequently, the proposals will not result in the isolation of Fox Glen.

4 - Full Ecological survey haven't been completed

- 9.25 Through the determination period, a full range of ecological surveys have been completed and submitted to SCC (CD1.14 and CD1.17a-c). These surveys assess all relevant habitat and species, and full assessment of the potential effects have been presented to SCC. This is common ground between the Appellant and SCC.
- 9.26 To assist the determination of the appeal a range of additional survey have been completed and are presented at Appendix 2.
- 9.27 Through the completion and submission of this work it is our professional opinion that no additional ecological survey work is required. Indeed, in my experience, it is rare to produce such detailed survey and assessment for a site of such relative unimportance in ecological terms.

10.0 SUMMARY & CONCLUSIONS

- 10.1 The Site has been the subject of detailed ecological survey work over an extended survey period covering several years. Detailed ecological assessments have been submitted to and reviewed by SCC over the determination period. The completed ecological surveys have identified no

significant ecological constraints to the proposed development and the statutory consultees including NE and SEU are satisfied that the proposals will not result in significant harm to ecological or nature conservation. Further, this is an agreed position between the Appellant and SCC (CD6.11: Paragraph 2.2 – 2.4 & 3.2).

- 10.2 The completed survey work has not identified significant use by species listed on the citation for the South Pennine Moors Phase 1 Special Protection Area (SPA) or the South Pennine Moors (SAC) and the ecological assessments submitted to SCC confirm no 'likely significant effects' on the conservation objectives of these designated sites. Sheffield City Council have completed a HRA assessment of the proposals both alone and in-combination with other plans or projects (CD2.25). This also concludes 'likely significant effects' from the proposals can be screened out, which is an agreed position with NE. Given these conclusions, the proposals and their assessment comply with the requirements of the Habitat Regulations and as such the principle of suitable development as outlined at Paragraph 177 of the NPPF can be applied to the proposals.
- 10.3 Habitats within the Site are predominately of low ecological value. The two Veteran trees situated in the north west of the Site are the most sensitive ecological receptors identified in the Site. These trees would be retained and protected during the construction and operational period. Given this protection the proposals are in accordance with the requirements Para 175 of the NPPF and policy LR5.
- 10.4 No statutory ecological constraints to the development have been identified from the presence of a bat roost or other protected species. The completed survey work did identify bats using the Site for the purpose of foraging and commuting but the assemblage was dominated by common and widespread species which are unlikely to be affected by the proposals. The GI proposed by the development would provide enhancements for the local bat population and in addition to the implementation of a low-level lighting scheme will ensure a foraging resource is retained within the Site. From this it has been concluded that the proposed would comply with the requirements of the Habitat Regulations and the proposals are likely to result in long term positive effects to the local bat population.
- 10.5 The assemblage of breeding and overwintering birds was only assessed as being of local level value and where necessary proportionate mitigation as recommended by Natural England has been provided. The overall assessment concluded the provision of the proposed enhancements are likely to result in long term positive effects to the local population. Given these benefits, the proposals are again considered to be in accordance with the requirements of national and local planning policies.
- 10.6 Fox Glen LWS is situated on the northern boundary of the Site and is situated on a strategic GI corridor that forms part of the local ecological network. The only direct effects to this LWS would be temporary disturbance during the implementation of a drainage channel through the woodland and the single outfall into the Clough Dike does not require significant alteration to the watercourse. The channel would be positioned to avoid significant effects to habitats and species in Fox Glen and with the application of appropriate control measures outlined in a CEMP, significant effects during the construction period will be avoided. Furthermore, over the operational period the mitigation and control measures implemented in the balancing facilities will avoid damage to the watercourse as demonstrated in the W DFA. Thus, the proposals accord with the requirements of Policies GE11, GE17 and GE26,

- 10.7 The proposals have been designed to improve ecological connectivity to the wider countryside south of the Site and maintain ecological connectivity along the northern edge of the Site. In addition, mitigation for the potential effects arising from increased recreation and disturbance during the operational period, as outlined at Paragraphs 6.25 – 6.28, would be provided and the proposals are unlikely to result in material effects to the conservation status of Fox Glen.
- 10.8 Paragraph 170 of the NPPF recommends the protection and enhancement of sites with biodiversity value and Paragraph 013 of the National Planning Practise Guidance highlights the importance of the protecting local ecological networks. Policies GE10 and GE13 also provide policy protection for locally designated sites. As the proposals avoid effects to the LWS and maintain ecological connectivity to the wider countryside, it is concluded that the proposals accord with the requirements of these policies.
- 10.9 Habitats within the Site and affected by the proposals are of low ecological value and the Site is of relatively low merit and significance in ecological terms. It does not provide significant contributions to habitats or species listed in S41 of the NERC Act 2006. The retention and enhancements of the field compartment within the south western part of the Site and the provision of other mitigation and enhancements through the Site GI would provide material net gains to biodiversity. The revised proposals submitted in Jan 2020 provide a significant net gain of 6.78 habitat units (a net gain of 51.63%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%). The 'Revised Illustrative Masterplan (April 2021)' also provide a material a net gain of 7.0 habitat units (a net gain of 53.26%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%). The development is in accordance with the requirements of Para. 175 of the NPPF and the National Planning Practice Guidelines.
- 10.10 In summary, neither the original appeal scheme, nor the 'Revised Illustrative Masterplan (April 2021)' proposals would result in the loss or deterioration of irreplaceable habitats as defined in the NPPF. Significant overall net gains to biodiversity would be delivered by the development. Therefore, from the submitted information and the evidence presented here, I conclude that the development proposals are in accordance with National and Local planning policies, and I respectfully request that this appeal is allowed.





**Proof of Evidence (PoE) Ecology & Nature Conservation:
Figures**

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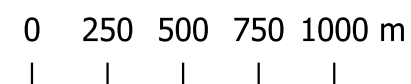
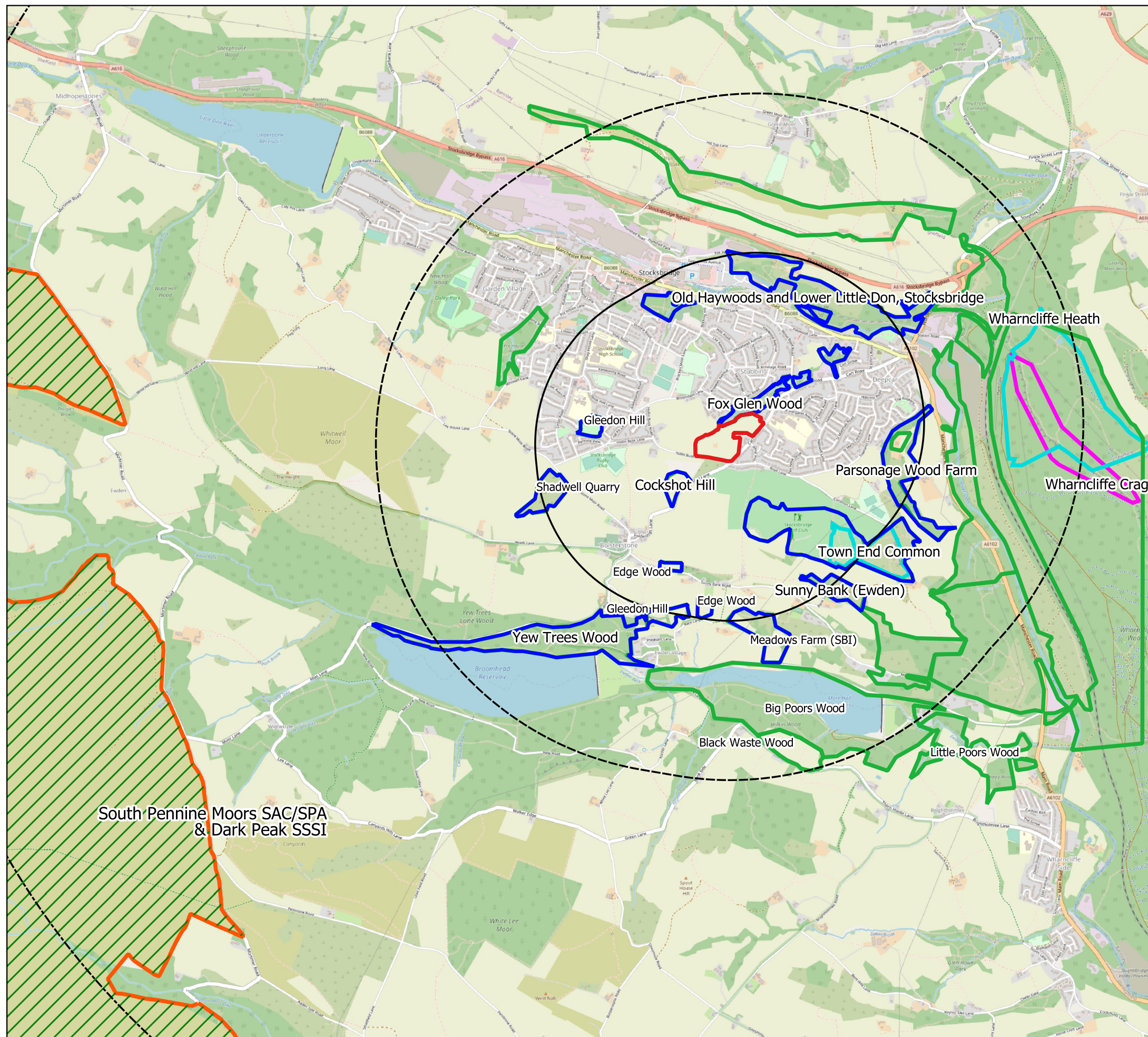
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Key

-  Site Boundary
-  1km buffer
-  2km buffer
-  5km buffer

Designated sites

-  Fox Glen Wood
-  Local Wildlife Sites (LWS)
-  Local Wildlife Sites (LWS)
-  Local Nature Reserves (LNR)
-  Site of Special Scientific Interest (SSSI)
-  Special Area of Conservation (SAC)
-  Special Protected Area (SPA)



client
Hallam Land Management

project
Land off Carr Road, Deepcar

fpcr

**STATUTORY & NON-STATUTORY
DESIGNATED SITES PLAN**

scale at A3
1:25000

drawn
FMH/KDG

issue
24/5/2021

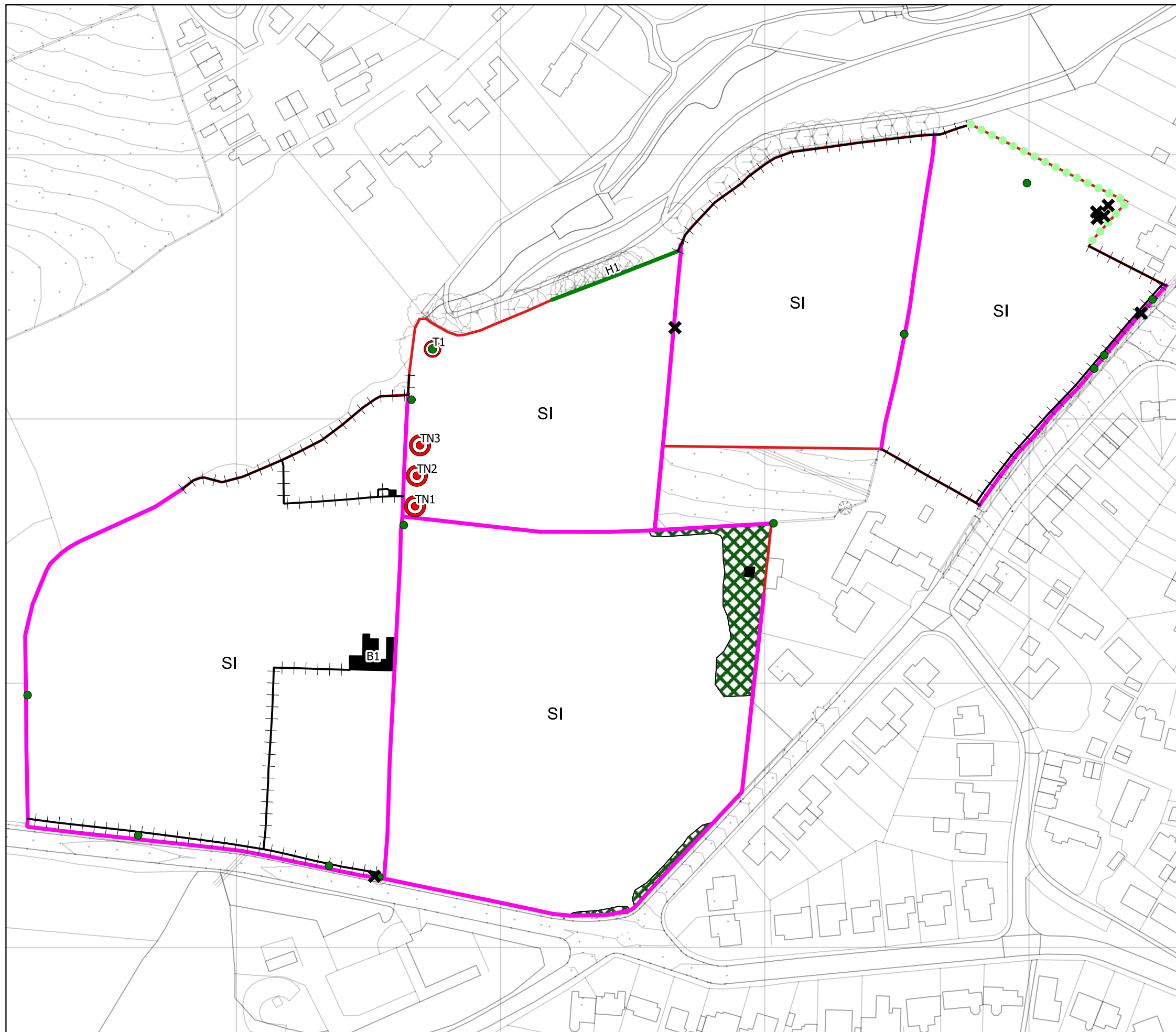
drawing / figure number
Figure 1 7301 - E - 01

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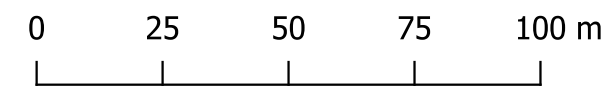
Key:

- Site Boundary
- Buildings
- Scrub - dense/continuous
- SI Poor semi-improved grassland
- Wall
- Intact hedge - species-poor
- Fence
- Coniferous trees
- ✕ Scrub - scattered
- Tree with bat potential
- Target note
- Broadleaved tree



client
Hallam Land Management
project
**Land off Carr Road,
Deepcar**
drawing title
PHASE 1 HABITAT PLAN

scale @ A3
1:1500
drawing / figure number
Figure 2
drawn
MPG/KDG
issue
20/1/2021
rev
7301-E-02



**Proof of Evidence (PoE) Ecology & Nature Conservation:
Drawings**

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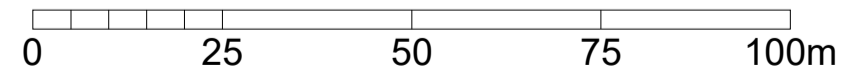
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-  Existing Residential Development
-  Proposed Residential Parcels
-  Site Access off Carr Road
-  Existing Vegetation
-  Accessible Green Space
-  Proposed Native Woodland Planting
-  Proposed Broadleaved Trees
-  Proposed Species Rich Hedgerow
-  Proposed Native Hedgerow (Formal access for management to be agreed)
-  Species Rich Grassland
-  Graded Woodland Edge Planting to Fox Glen
-  Balancing Facility rich grassland with species tolerant of wet / dry conditions
-  Rough Grassland Field Margin to Western Field (natural regeneration)
-  SuDS - Detention Basin (Refer to indicative engineering details. Appropriate planting and mixes for ecology benefits)
-  Play Area
-  Recreational Routes - To Include Potential Links Into Fox Glen
-  Gritstone Boundary Walls
-  Indicative Location for Wader Scrape
-  Indicative Area for Grazing (Agreement as per management plan)
-  Approximate Boundary to Low Lux Level Area

Scale: 1:1000 @A1



J:\7300\7301\LANDS\Plans\7301-L-02D GI PRINCIPLES PLAN.indd

Hallam Land Management Ltd
Land off Carr Road
Deepcar

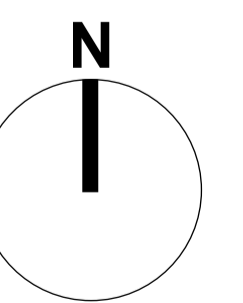
GREEN INFRASTRUCTURE INDICATIVE PRINCIPLES PLAN

1:1000 @A1
January 2021 CC / KG
7301-L-02 rev D

masterplanning
 environmental assessment
 landscape design
 urban design
 ecology
 architecture
 arboriculture

FPCR Environment and Design Ltd
 Lockington Hall
 Lockington
 Derby DE74 2RH
 t: 01509 672772
 f: 01509 674565
 e: mail@fpcr.co.uk
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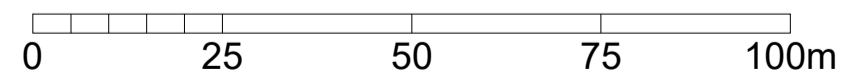
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-  Existing Residential Development
-  Proposed Residential Parcels
-  Site Access off Carr Road
-  Existing Vegetation
-  Accessible Green Space
-  Proposed Native Woodland Planting
-  Proposed Broadleaved Trees
-  Proposed Species Rich Hedgerow
-  Proposed Native Hedgerow (Formal access for management to be agreed)
-  Species Rich Grassland
-  Graded Woodland Edge Planting to Fox Glen
-  Balancing Facility rich grassland with species tolerant of wet / dry conditions
-  Rough Grassland Field Margin to Western Field (natural regeneration)
-  SuDS - Detention Basin (Refer to indicative engineering details. Appropriate planting and mixes for ecology benefits)
-  Play Area
-  Recreational Routes - To Include Potential Links Into Fox Glen
-  Gritstone Boundary Walls
-  Indicative Location for Wader Scrape
-  Indicative Area for Grazing (Agreement as per management plan)
-  Approximate Boundary to Low Lux Level Area

Scale: 1:1000 @A1



J:\7300\7301\LANDS\Plans\7301-L-02E GI PRINCIPLES PLAN.indd

Hallam Land Management Ltd
Land off Carr Road
Deepcar

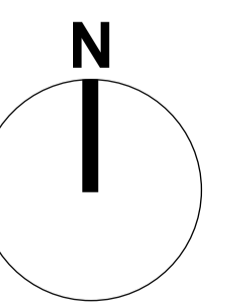
GREEN INFRASTRUCTURE INDICATIVE PRINCIPLES PLAN

1:1000 @A1
May 2021 CC / KG
7301-L-02 rev E

masterplanning
 environmental assessment
 landscape design
 urban design
 ecology
 architecture
 arboriculture

FPCR Environment and Design Ltd
 Lockington Hall
 Lockington
 Derby DE74 2RH
 t: 01509 672772
 f: 01509 674565
 e: mail@fpcr.co.uk
 w: www.fpcr.co.uk

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Appendix 1:

Chronology of the Ecological Submissions and Responses

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Appendix 1: Chronology of the Ecological Submissions and Responses

Submission Date	Submission Title	Summary of Submission	CD Ref (if relevant)
November 2017	Hallam Land Management Ltd. Land off Carr Road, Deepcar Ecological Appraisal & Protected Species Report.	Ecological survey work / assessment including: Consultation Exercise & Assessment of effects on the statutory and non-statutory designated sites. Phase 1 habitat Assessment. Badger Surveys. An assessment of environmental conditions for amphibians including great crested newts. Bat Surveys (Roost Assessment / Foraging & Commuting Assessment). Reptile Surveys. Winter / Breeding Bird Surveys. Assessment of the overall effects and recommendations for mitigation and compensation.	CD1.14
19 Jan. 2018	Sheffield Ecology Unit (SEU): Consultee Response	Further information requested on: Evidence and qualifications of surveyors. Additional information requested for the following receptors: hedgerows, brown hare, water vole, white clawed crayfish, invertebrates. Additional justification requested for: The reptile survey methodology. The effects of lapwing and meadow pipit. The survey methodology for the static detector surveys. Visitor pressure on Fox Glen and the potential for a S106 contribution.	CD2.16
30 Jan 2018	Natural England (NE) Response	No objection to the proposals. NE recommended to SCC a HRA for the proposals was required but confirmed from the bird survey results likely significant effects on the South Pennine Moors SAPA could be ruled out. The response also confirmed that based on the information, NE had concluded potential effects from increased recreational pressure were unlikely.	CD2.8
27 March 2018	SCC Case Office Email to NE	Email chasing NE formal response on SCC HRA Screening Assessment.	CD2.9

Submission Date	Submission Title	Summary of Submission	CD Ref (if relevant)
29 March 2018	NE consultation response	Confirms NE's opinion of 30 Jan 2018 remains valid.	CD2.9
20 July 2018	SCC Stage 1: Habitat Regulation Assessment (HRA)	<p>Stage 1 Screening Assessment (completed by SCC) following NE advise in the consultation response dated 30 Jan. 2018 (CD2.25).</p> <p>The screening assessment of the proposals was completed in accordance with the requirements of the Habitat Regulations. The assessment screens out 'likely significant effects' to the conservation objectives of the South Pennine Moor SPA / SAC arising from habitat loss, effects to designated species, increased recreational pressure and effects to air quality both alone or in combination with other plans or projects.</p> <p>In addition, the screening assessment also screens out potential effects on all other SSSI situated on land in the wider environment surrounding the proposed development but outside the SPA / SAC designation.</p>	CD2.25
October 2018	Hallam Land Management Ltd Land off Carr Road, Deepcar Ecology: Additional Information Document	<p>Submission of additional ecological information to respond to comment provided by SCC in January 2018.</p> <p>Additional information provided:</p> <p>Information of FPCR ecological staff. Additional clarification provided on: the hedgerow, brown hare, invertebrates, reptiles, bats, assessment of effects to bird species. Additional survey information provided for: water vole, otter and white clawed crayfish, botanical survey work on the drainage route through the Fox Glen including an assessment of the potential effects to Fox Glen. Clarification of the overall mitigation package for the various ecological receptors.</p>	CD1.17a-c
17 Jan 2020	FPCR Submission Ecological Update & Review	<p>The submission provided the results of an updated phase 1 habitat assessment completed in January 2020. This assessment confirmed habitats within the Site had not significantly changed since the previous surveys in 2017. This submission was made to support the revision of the planning application which reduced the number of residential dwellings from 93 to 'up to 85'.</p> <p>The submission also provides a summary of the information submitted to the SCC during the determination period.</p>	CD1.18

Submission Date	Submission Title	Summary of Submission	CD Ref (if relevant)
05 June 2020	SCC Consultation Response	<p>The response confirms the updated survey was completed during a suboptimal period but accepted the site was dominated by low-value poor semi – improved grassland. The consultation response suggests an update ecology report should be submitted if the application is still progressing in 12 months.</p> <p>The response confirms the main consideration is the link between Fox Glen and the wider landscape.</p> <p>This response also provides internal commentary to a consultation response that had been received.</p>	CD2.17
25 June 2020	SCC Consultation Response	<p>This confirms previous comments about the isolation of Fox Glen LWS and suggests a condition relating to outstanding issues* and BNG. With the application of such conditions, SEU considered the proposals would be acceptable in principle.</p> <p>*We assume the outstanding issue relates to updating survey work and further detailed designs for the link between Fox Glen LWS and the wider countryside.</p>	CD2.18
Post Determination Documents			
April 2021	FPCR Submission Updated Phase 1 Habitat Survey	This document confirms the results of an updated Phase 1 Habitat Survey completed in August 2020.	CD1.32
May 2021	FPCR Submission Ecological Impact Assessment	<p>The document presents a full Ecological Impact Assessment. The result of updated ecological surveys are provided in the document. The updated survey work presented includes:</p> <ul style="list-style-type: none"> • Phase 1 Habitat Survey (Completed: Aug. 2020) • Bat Activity Surveys (Static Detector / Walked Transect) – (Completed: May – September 2018 & April / May 2021) • Invertebrate Scoping Assessment (Completed: Aug 2020) • Winter Bird Surveys (Completed: December 2020 – February 2021) • Breeding and Passage Bird Surveys: (Completed: March – May 2021) • Fox Glen. Extended Bird Survey (Completed: December 2020 – May 2021) • Local Wildlife Assessment (Completed: April 2021) • Water vole, white clawed crayfish and otter survey (Completed: April 2021) 	Appendix 2: Ecological Proof of Evidence

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