

Ashland Road West, Sutton-in-Ashfield Appeal

Rebuttal Proof of Evidence on behalf of Ashfield District Council for Ecology

By

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Contents

1. Introduction	1
2. Badgers Surveys	1
3. Great Crested Newts.....	2
4. Grassland Classification.....	2
5. BNG calculation	5
6. Conclusions	6

1. Introduction

1. I am now in receipt of the proof of evidence Mr Kurt Goodman on ecological matters acting on behalf of the appellant. The proof of evidence includes new survey evidence which I had not previously had sight of and which has allowed me to gain a better understanding of some aspects of the ecology of the site. Furthermore, I have now carried out my own site visit which has also added to my knowledge of the appeal site. This additional information has led me to review my assessment of some aspects of the case and I have produced this rebuttal proof in order to present my reviewed position in advance of the Inquiry. The key areas I cover in this rebuttal concern:

- (i) the status of badgers on the site,
- (ii) the data on Great Crested Newts, and
- (iii) the classification of the eastern grassland.

This rebuttal is to be read alongside my main proof and it only covers additional information on the points set out above. Failure to respond to any point raised by Mr Goodman's proof should not be read as reflecting any agreement on my part.

2. Badgers Surveys

2. In Appendix 2 to his proof of evidence My Goodman has presented new evidence of the status of the badger activity within the site. The information on badgers at the site is, however, somewhat confused and based on inadequate data.
3. The original survey carried out in 2019 reported an active five hole sett along the southern boundary of the site (FCPR Ecological Appraisal 2020 CD 1.12 para 3.72). In Appendix 2 of Mr Goodman's proof this is reported as a four hole sett (see paragraph 1.4).
4. Mr Goodman's Appendix 2 also refers to a badger survey carried out in 2020 (although no reference is given to any report and I have not seen any such survey report). At paragraph 1.4 it is reported that the 2020 survey found the four/five hole sett to be inactive.
5. It would appear from the new surveys work carried out in 2021 that an entirely new badger sett is now present on the southern boundary and that the four/five hole sett recorded in 2019 is no longer present (Mr Goodman's Proof of Evidence Appendix 2 paragraph 5.1).

6. All the badger surveys (2019, 2020 and 2021) were carried out in July which is outside the optimal period for completing badger surveys (February to April, or October to December) (see FCPR Ecological Appraisal CD 1.12 paragraph 4.14 p 36).
7. Despite the sub-optimal surveys and notwithstanding the contradictory reporting the results demonstrate how quickly badger activity can change over a very short period of time (in this case 2 years). My assessment of the impacts on badgers has therefore not changed. With 2 badger setts now present along the southern boundary, one in current use and one not, it is quite possible that a main sett could become established in the near future (i.e. within months as the females establish breeding setts) if it is not already present.

3. Great Crested Newts

8. The appellant has now completed terrestrial surveys of the site to establish whether or not this species is present on the site. The methods employed were in my view sufficient to establish present/absence of GCN on the site. I am therefore content that the new survey data coupled with the proposed mitigation strategy is sufficient in relation to assessing potential impacts on Great Crested Newts and that the inquiry does not need to explore this issue further.

4. Grassland Classification

9. On August 24th I was able to carry out a site visit of the proposed development site. During the visit I was accompanied by Mr Mark Woods and I was able to gain a more complete understanding of the ecology of the site and the immediate surrounds. I was able to look at the grassland which the site supports and in particular the botanical composition of the eastern field which is managed as a hay meadow. I also inspected the woodland which supports the population of that rare plant broadleaved helleborine (*Epipactis helleborine*) which had not been recorded by the appellant's ecologists FCPR.
10. At the time of the site visit the grassland within the site has been recently mown however the arisings (cut grass) had not been removed so it was possible to see the species present. While we were not able to do a full botanical survey of the grassland (because of its mown state) it was clear that the grassland within the eastern field supports many more species than those which were recorded by the appellants ecologist. This is a critical point as it has revealed that the classification of the grassland as 'Modified Grassland' within the BNG calculation (CD 2.6) is incorrect.

11. The ecological data presented by the appellant includes a list of species recorded in the grasslands (FCPR Ecological Appraisal CD 1.12 Appendix A p45). For ease of reference the list is reproduced below. 29 species were recorded during the appellants survey.
12. During our site visit Mr Woods and I recorded an additional 11 species, bringing the total species present to at least 40.
 1. Anthoxanthum odoratum – sweet vernal grass
 2. Cynosurus cristatus – crested dog’s-tail
 3. Agrostis capillaris – common bent-grass
 4. Agrostis stolonifera – creeping bent-grass
 5. Phleum bertolonii – Small cat’s-ear
 6. Lotus corniculatus – bird’s-foot trefoil
 7. Trifolium pratense – red clover
 8. Senecio erucifolius – hoary ragwort
 9. Poa trivialis – rough meadow-grass and
 10. Odontites vernus – Red bartsia
 11. Festuca rubra – red fescue
13. It is however not surprising that the appellant’s survey missed a large number of species given that the grassland had been recently mown immediately prior to when the survey was carried out. Furthermore, it is clear from the photographs taken at the time that the arisings (cut grass) had already been removed at the time the appellant’s ecologist surveyed the site (see CD 1.12 Photograph 5). Given the state of the grassland at the time it was surveyed by the appellant it would have been impossible to carry out an abundance assessment (DAFOR) as the vegetation had been recently removed.

Table 1 Extract from FCPR Ecological Appraisal (CD 1.12, Appendix A, Botanical Species List p45)

Common Name	Scientific Name	DAFOR
Poor Semi-improved Grassland		
cock's foot	<i>Dactylis glomerata</i>	D
common mouse-ear	<i>Cerastium fontanum</i>	O
common sorrel	<i>Rumex acetosa</i>	O
common vetch	<i>Vicia sativa</i>	Locally F
couch grass	<i>Elymus repens</i>	R
Cut-leaved crane's-bill	<i>Geranium dissectum</i>	O
creeping buttercup	<i>Ranunculus repens</i>	Locally F
creeping cinquefoil	<i>Potentilla reptans</i>	R
creeping thistle	<i>Cirsium arvense</i>	R
dandelion sp.	<i>Taraxacum officinale</i> agg.	F
false oat-grass	<i>Arrhenatherum elatius</i>	D
fescue sp.	<i>Festuca</i> sp.	O
field horsetail	<i>Equisetum arvense</i>	R
goat's-beard	<i>Tragopogon pratensis</i>	R
hedge bindweed	<i>Calystegia sepium</i>	R
Italian ryegrass	<i>Festuca perennis</i>	R
meadow buttercup	<i>Ranunculus acris</i>	F
meadow foxtail	<i>Alopecurus pratensis</i>	F
meadow vetchling	<i>Lathyrus pratensis</i>	O
mosses	<i>Bryophyta</i> sp.	Locally F
perennial ryegrass	<i>Lolium perenne</i>	D
ribwort plantain	<i>Plantago lanceolata</i>	F
rough meadow-grass	<i>Poa trivialis</i>	F
great burnet	<i>Sanguisorba officinalis</i>	Locally F
soft rush	<i>Juncus effusus</i>	Locally F
timothy	<i>Phleum pratense</i>	O
tufted vetch	<i>Vicia cracca</i>	Locally F
white clover	<i>Trifolium repens</i>	F
Yorkshire-fog	<i>Holcus lanatus</i>	D

14. It is clear, however, from my recent site visit that the eastern field is a hay meadow which was not correctly surveyed by the appellant and is much more species rich than claimed.
15. The consequences of this are two-fold: firstly, the level of value of this habitat is elevated as it cannot be considered an 'improved species poor grassland' and the loss of this hay meadow adds to the significant loss of biodiversity which will arise from the proposed development; and, secondly, the correct classification of the hay meadow has significant

implications for the Biodiversity Net Gain (BNG) calculation. I explore this latter point in more detail below.

16. The Defra BNG metric uses the UK Habitat Classification (UK Habs) system to define the habitats (CD 7.12). This is a relatively new system, version 1 of which was published in May 2018.
17. In order to calculate the BNG baseline the appellant's ecologist has classified the hay meadow as Modified Grassland (G4 Appendix 1 below). Modified Grassland is defined as '*Vegetation dominated by a few fast-growing grasses on fertile, neutral soils. It is frequently characterised by an abundance of Rye-grass *Lolium spp.* and White Clover *Trifolium repens.**' my emphasis. The species description goes on to say '*Species poor <9 species m².*' This means that if one were to survey a square meter of the grassland one would expect less than 9 species to be recorded. Clearly this criteria is not reflective of species abundance in the hay meadow. Even taking into account variation in the sward across the site it is inconceivable that on a site upon which 40 species have been recorded that this criteria would be met. The grassland is clearly not species poor even based on the sub optimal surveys that have been carried out (i.e. following mowing of the meadow).
18. The habitat type which most closely matches the species present within the hay meadow is UK Habs G3c Other Neutral Grassland see Appendix 1. This is determined by the higher number of species present (between 9 and 15 species). While not a rare habitat type it is considered to be of considerably greater ecological value than Modified Grassland and this is reflected in its BNG value.
19. In my proof of evidence (CD 6.15) I had stated at paragraphs 31 and 32 that I was content that FCPR's Ecological Appraisal was accurate in the site description it provided and that the site description had provided suitable evidence for the baseline calculations that were contained in the FCPR Biodiversity Metric Calculator spreadsheet. However, based on the new evidence I now have I need to retract those statements and request that the inspector disregards those two paragraphs of my proof.

5. BNG calculation

20. As a consequence of the appellant's wrong classification of the hay meadow the BNG calculation presented by the appellant is also incorrect. Currently, the BNG value of the hay meadow is 7.59 BNG units (CD 2.6). Using the same metric 2.0 employed by the appellant, without changing any other parameters, the value of this grassland doubles to

15.18 BNG units. In my view, having viewed the grassland, the condition should be increased from ‘fairly poor’ (as stated in the appellant’s metric) to ‘Moderate’, based on a lack of ‘weeds’, <5% cover of bare ground, <5% cover of bracken, <5% cover of trees and shrubs, negligible thatch layer and very limited cover of bryophytes. This increases the biodiversity value to 20.24 units. Furthermore, the appellant has classified the ‘ecological connectivity’ of the hay meadow as being low. This is also incorrect. This grassland is located immediately next to very high quality grasslands within Brierley Forest Park LNR and must therefore be classified as being of at least medium ecological connectivity. That being the case the value of the hay meadow increases further to 22.26 BNG units almost 3 times that calculated by the appellant.

6. Conclusions

21. While I am of the view that GCN population are no longer an issue for the inquiry it is clear that the site remains important for badgers and has the high potential to support a main sett.
22. It is also clear from the evidence that the classification of the hay meadow presented by the appellant is incorrect, the value of the grassland has been grossly under-valued and the BNG calculation is therefore incorrect. This further re enforces my view that the ecological reason for refusal is entirely justified as the value of the habitats to be lost are higher than presented by the appellant. Furthermore, the ecological losses that would arise if permission were granted would not be adequately compensated.

Appendix 1 UK Habs Classification g4 and g3c

UK HABITAT CLASSIFICATION – HABITAT DEFINITIONS

g4 Modified grassland

Definition

Vegetation dominated by a few fast-growing grasses on fertile, neutral soils. It is frequently characterised by an abundance of Rye-grass *Lolium spp.* and White Clover *Trifolium repens*.

Species

Palatable grasses dominate mainly Rye grasses *Lolium spp.*, Timothy *Phleum pratense*, Cock's-foot *Dactylis glomerata*, Crested Dog's-tail *Cynosurus cristatus*, Yorkshire Fog *Holcus lanatus*. Grass cover usually over 75%. Broadleaved species restricted mainly to White Clover *Trifolium repens*, Creeping Buttercup *Ranunculus repens*, Greater Plantain *Plantago major*, Dandelion *Taraxacum officinale*, Broad-leaved Dock *Rumex obtusifolius* and Chickweed *Stellaria media*. Fertile but wetter situations may support occasional Soft Rush *Juncus effusus* or Hard Rush *Juncus inflexus*, Floating Sweet Grass *Glyceria fluitans*, Creeping Bent *Agrostis stolonifera* and Rough Meadow-grass *Poa trivialis*, but accompanying species will always indicate high fertility. Species poor <9 species m⁻².

Position in the Classification

Primary

Level 3

Edition

Basic and Professional

More detailed categories available

0 subset categories

Categories at the next level

Status

Feature Type

Area

g3c Other neutral grassland

Definition

Neutral grassland that does not meet the definition of either g3a or g3b. Perennial Rye-grass *Lolium perenne* is likely to be present at <30% with between 9 and 15 further species (m2) also present. Many of the more species rich swards that were previously described as "semi-improved neutral grassland" will fall here, together with rank and unmanaged swards on neutral soils.

Landscape and Ecological Context

Extremely widespread in the UK lowlands.

Inclusions

Special note: many surveyors may wish to add detail to this category. Please consider using the relevant secondary codes: management (e.g. "78 - abandoned" or "80 - unmanaged" gives much information on the nature of the sward); environmental qualifiers (e.g. "117 - dry", "118 - mesic", "120 - wet", "123 - neutral grassland with calcicoles") and species features (e.g. "160 - sward type mosaic", "161 - tall or tussocky sward").

Exclusions

Species poor swards previously described as "semi-improved neutral grassland" (see g4).

Species

Grasses may include Perennial Rye-grass *Lolium perenne*, Common Bent *Agrostis capillaris*, False Oat-grass *Arrhenatherum elatius*, Yorkshire-fog *Holcus lanatus*, Hogweed *Heracleum sphondylium*, Perennial Rye-grass *Lolium perenne*, Common Bent *Agrostis capillaris*, Crested Dog's-tail *Cynosurus cristatus*, Rough Meadow-grass *Poa trivialis* and Cock's-foot *Dactylis glomerata*. Herbs may include Yarrow *Achillea millefolium*, Ribwort Plantain *Plantago lanceolata*, Creeping Thistle *Cirsium arvense*, White Clover *Trifolium repens*, Red Clover *Trifolium pratense*, Meadow Buttercup *Ranunculus acris*, Creeping Buttercup *Ranunculus repens*, Common Nettle *Urtica dioica*, Ribwort Plantain *Plantago lanceolata*, Creeping Thistle *Cirsium arvense* and Daisy *Bellis perennis*.

Position in the Classification

Primary

Level 4

Edition

Basic and Professional

More detailed categories available

4 subset categories

Categories at the next level

g3c5 g3c6 g3c7 g3c8

Status

Feature Type

Area



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