

Technical Note

Project: Land at Blowers Wood, Hempstead

Planning Ref: MC/23/0284

TN02: Further Ecological Information in Response to KCC EAS Consultation Comments

Date: 8 February 2024

1. Introduction

- 1.1. Aspect Ecology is advising Redrow Homes Ltd. in respect of ecological matters regarding Land at Blowers Wood, Hempstead, centred at grid reference SP 4597 4300, hereafter referred to as 'the site'.
- 1.1. An outline planning application (ref: MC/23/0284) has been submitted to Medway District Council (MDC) for a residential development of 88 dwellings (including 25% affordable) together with associated parking, access, open space, landscaping and SuDS.
- 1.2. Those documents, prepared by Aspect Ecology, relating to ecology and biodiversity which were submitted with the planning application include:
 - Ecological Appraisal (Aspect Ecology, January 2023). 6514 EcoAp vf1a AO/MRD)
 - Biodiversity Net Gain Assessment (Aspect Ecology, January 2023). 6514 BNG TN vf1b JW/MRD).
- 1.3. Comments have been received from a number of consultees as follows:
 - Kent County Council Ecological Advice Service (KCC EAS). Dated 27 March 2023;
 - Kent County Council Ecological Advice Service (KCC EAS). Dated 26 Sept. 2023;
 - Natural England. Dated 23rd March 2023.
- 1.4. There has also been further e-mail correspondence between KCC EAS and Aspect Ecology between the dates of the two consultation responses, which has informed their latter response.
- 1.5. Alongside this note, a revised Biodiversity Net Gain (BNG) Assessment, which has been prepared using the most up to date version and based on the current site layout as amended.

2. Response to Consultation Comments

- 2.1. This Technical Note sets out responses to the comments from the KCC Ecological Advice Service contained within the two consultation responses.

Biodiversity Net Gain - Metric Trading Rules.

2.2. Following KCC EAS's first consultation response, which identified that a trading error was present, Aspect Ecology engaged with KCC AES to explore the as it was providing difficult to provide sufficient scrub in the proposed scenario, to compensate for the sprawling bramble scrub which forms patches within the site, where the grass has not been recently managed. Originally, we sought to agree a derogation to the trading rules, since to provide enough scrub within the proposed Public Open space, would have resulted in an unbalanced landscape scheme.

2.3. In their consultation response of 26 September 2023, KCC EAS reiterated the need for the trading rules to be met, commenting as follows:

"Natural England advise that in exceptional ecological circumstances, proposals which do not comply with the trading rules of the metric may be accepted. Natural England have advised local authorities that the term 'ecologically exceptional' refers to highly unusual situations, such as creation of salt marsh, reservoir decommissioning, or re-meandering of a river. Even in these circumstances, a substantial burden of evidence will be required. There we advise that breaching trading rules based on scrub loss is not considered ecologically exceptional and the landscaping proposals should be amended accordingly";

2.4. Since this time, the layout has been subject to a number of changes, and the landscape plans have been revised accordingly. Following these changes, a revised version of the BNG Assessment and report has been produced, and it has been possible to overcome the trading error. This has been achieved by finding an additional area of proposed scrub planting to the south of the site, as well as within the Ancient Woodland Buffer zone and elsewhere.

Achievement of Net Gain

2.5. In their consultation response of 26 September 2023 KCCC EAS comment that;

"With regard to our previous comment that biodiversity net gain is unlikely to be achieved this refers to our concerns that, while at least 10% net gain may be theoretically possible under habitat proposals documented in the metric, given the intensive development layout and lack of open space for recreation there are doubts that successful management to create the proposed target habitats is achievable";

2.6. The revised BNG Assessment demonstrates a 20.23% net gain, which is well in excess of the 10% requirement introduced by the Environment Act, which will be implemented in the near future. It is also sufficient to meet the aspirational MBC target of 20%, which is likely to form the policy basis of the emerging Local Plan.

2.7. The Conditions which have been assigned to the proposed habitats are considered to achievable, especially considering that the much of the proposed habitats will be within the Ancient Woodland buffer zone, which will be fenced off from public access, or elsewhere in areas outside the public domain (such as outside the built development to the south). A summary of the condition assumptions is provided below:

- Proposed scrub in AW assumed to be 'Good'

- Remaining scrub assumed to be 'Moderate'
- 'Other Neutral Grassland' across site (AW buffer zone and SuDS) assumed to be 'Moderate'.
- 'Modified Grassland' across site assumed to be 'Moderate' – as a wildflower mix, but assuming that it will be managed as tightly mown.
- Hedgerows in the proposed scenario are a mixture of species-rich hedges which are expected to reach 'Moderate' condition, and single-species hedgerows which are expected to reach 'poor' condition.
- Trees – 'moderate' condition assumed across the site.

2.8. A more detailed account of the conditions is provided within the BNG Assessment report, however, we consider that the condition assessment is robust, realistic and clearly evidenced, even in those situations where public access is available. Given appropriate management there is no reason to assume that the target habitat condition cannot be achieved.

Ancient Woodland Buffer

2.9. In their consultation response of 26 September 2023 KCC EAS comment that:

"We are very concerned at the proposal for the ancient woodland buffer to form the largest area of open space within the development and for less than 50% of its width to be managed as scrub habitat. We advise that the likelihood that this buffer will prevent loss and/or deterioration of the ancient woodland through recreation impacts is negligible and no compensation strategy has been proposed";

- 2.10. Although the Ancient Woodland Buffer Zone could be considered as 'Open Space' it is not publicly accessible, and is proposed to be fenced off. As such it is entirely set aside for semi-natural habitat, including scrub and grassland, which are those habitats cited within the Ancient Woodland Standing Advice as being compatible. We also disagree that scrub accounts for <50% of the width (in most cases it is more). The wider point here is that, aside from having a function as a defensive barrier, the scrub planting improves the ecological functionality of the woodland edge, by creating a gentle 'eco-tone' edge feature. Such 'ecological clines' are known to provide a wide range of different habitat niches for multiple species. This relies on having both the scrub and the adjacent flower-rich grassland elements together, as well as scattered individual trees.
- 2.11. As set out in para. 3.3.7 of the Ecological Appraisal, the buffer meets the requirements of the joint Natural England/Forestry Commission Standing Advice which recommends a buffer zone with a minimum width of 15m. The 15m width is some places exceeded, especially in the western corner of the site.
- 2.12. In terms of the potential for effects which might constitute loss or deterioration under para. 180c of the NPPF, we draw KCC EAS's attention to Section 3.3 of the Ecological Appraisal, which may have been overlooked, but which deals with the potential for various effect types, including Recreation Impacts (at para 3.3.14). In addition, we would like to highlight a number of points specific to the potential for recreational disturbance:
- a) There are no Public Rights of Way within Blowers Wood, apart from a short section which crosses N-S, connecting the site to Lambsfrith Grove to the north. Here it has been agreed with the planning officer that an indicative design will be submitted as part of the application for the sympathetic upgrade of the footpath, to allow

pedestrian use without damage to the AW. As the land at this location is not under the control of the applicant, the intention would be for the LPA to secure any necessary permissions and carry out this works at a later date. Details can be provided to KCC if required.

- b) At the same location as a) above, further mitigation is also proposed at the above location in the form of fencing to prevent access into the eastern part of Blowers Wood. Here there are low levels of informal existing use off the PROW (see para 3.3.14 of the Ecological Appraisal), and a path has been formed. Once is fenced as part of the footpath improvement proposals this will be prevented, and will represent betterment in comparison to the existing situation.
- c) During the site visits, low levels of existing pedestrian footfall were observed within the ancient woodland belt, along a single permissive path in the western part of Blowers Wood. This continues in a similar vein through further woodland to the north, where is skirts the existing residential development, and allows access to the retail park beyond. Although this existing path is already well established, it forms a discrete obvious path through the linear woodlands to the west of Hamstead and there is no evidence of widespread trampling, or other adverse effects of footfall or other recreational pressure, most likely owing to what appears to be free-draining conditions. Dog waste bins are already provided at frequent intervals along its length, meaning that eutrophication is controlled both in the existing and proposed scenarios. Overall the condition of the woodland is considered to be unlikely to change dramatically as a result of the additional foot traffic resulting from the development.

2.13. Figure 2.1 below shows a typical view of the footpath through woodland to the north of the site, together with one of the dog waste bins.



Figure 2.1. Woodland path to north of the site

- 2.14. Provided that the mitigation is put in place which is set out in the Ecological Appraisal it is not considered that there will be adverse effects resulting from Recreational Disturbance, or other effect types. As such, there would not be a requirement for a compensation strategy to be put in place.
- 2.15. In addition, it also understood that a contribution of £150,000 will be made to the Local Planning Authority, via a s106 agreement, for upgrading the existing cycle/pedestrian footpath on Hoath Way. This would provide an improved route from the site to the north, allowing better access to the town and associated commercial areas.
- 2.16. As such, it is anticipated that the effect of this improved path will be to have a further mitigatory effect by removing existing/proposed pressure from informal woodland paths which people might use, with a greater number of people using the improved facilities along Hoath Way in preference to the woodland route.
- 2.17. The arrangement of the site, in relation to the existing paths, and to Hoath Way is illustrated in Figure 2.2 below.

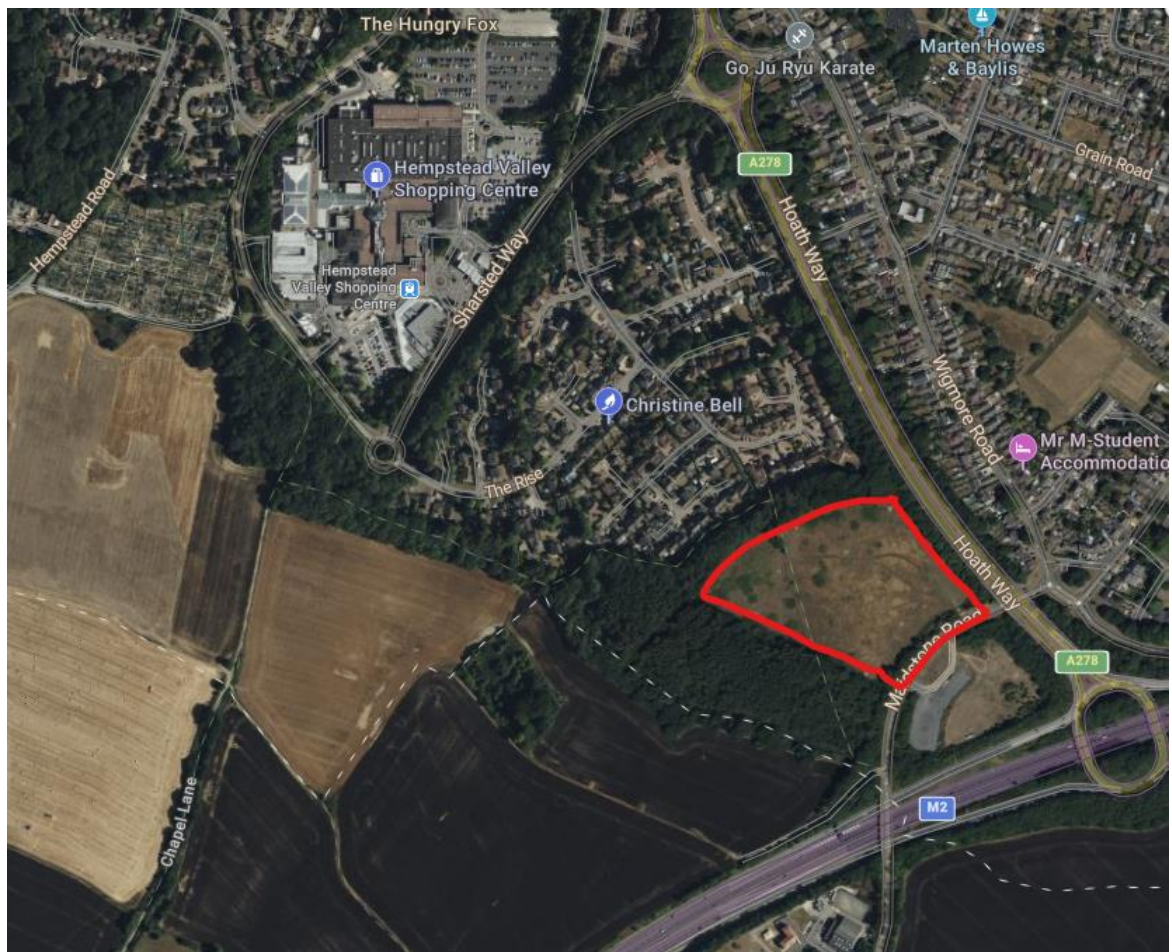


Figure 2.2. Site in relation to surrounding paths and accessible woodland.

- 2.18. KCC EAS do not provide any indication of what they would consider to be suitable further mitigation for recreational disturbance, but we would be happy to enter into discussions with them to more fully understand their concerns.
- 2.19. To provide additional comfort, we would like to propose two additional items of further mitigation, which are:
- The installation of an additional dog waste bin at the point that the Public Right of Way exits the site to the west;
 - The distribution of householder leaflets, to be distributed to all new residents, explaining the ecological value and sensitivities relating to ancient woodland, and providing a series of guidance points relating to the responsible use of the woodland.
- 2.20. Finally, it should also be noted that Natural England have been consulted as a Statutory Consultee, and have not raised any objections relating to Ancient Woodland, citing their Statutory Advice.
- 2.21. Indeed, access to ancient woodland is a central tenet of government policy set out in Keepers of Time (2022) which states *“Many ancient woodlands provide public access, allowing people to make important contact with nature that helps to promote interest in the protection of these habitats, while delivering many health and wellbeing benefits. We encourage the responsible use of these habitats, especially those woodlands close to where people live”* (my emphasis)

with this reflected in the stated aims of the policy which includes “increase the number of people who have access to an ancient or native woodland near to where they live”.

Priority Habitat Woodland

2.22. In their consultation response of 26 September 2023 KCC EAS comment that:

“We are similarly concerned with potential impacts of recreation on the priority habitat woodland located along the site’s south-western boundary. Paragraph 84 of the ODPM Circular 06/2005 states that “...potential effects of a development, on habitats or species listed as priorities... ...are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions”. Appropriate mitigation is required where impacts on priority habitat are likely. In our view the current design layout does not provide sufficient mitigation and no compensation strategy has been proposed;”

2.23. An area of non-ancient woodland exists to the west of the site, which is approximately 3.9ha in size. It has permissive access to members of the public granted by the existing landowner. Although impacts to Priority Woodland Habitat have been raised as a concern by KCC EAS, in our view, it actually provides a large accessible area of woodland with the potential to absorb recreational pressure. As a young recently planted secondary woodland with a poorly developed ground flora, and an absence of mature valuable tree specimens, it does not have the same sensitivities as the nearby ancient woodland, and is likely to have a relatively high tolerance for informal recreation without causing damage.

Biodiversity Net Gain - Good Practice Principle 7: Additionality

2.24. In their consultation response of 26 September 2023 KCC EAS comment that:

“The ecological assessment describes how proposed scrub and grassland habitat within the 15m buffer to the ancient woodland will provide mitigation for ancient woodland and protected species including reptiles and hazel dormouse. As such, under the principle of additionality, these habitat areas cannot be included within the calculation above no net loss. Natural England have advised that evidence of additionality can be shown by the provision of two metric calculations. The BNG assessment report should also include a plan showing clearly those habitats required for mitigation and those which are not”;

2.25. Here KCC EAS are referring to principle 7 of the CIRIA/CIEEM/IEMA Good Practice Principles for Biodiversity Net Gain¹², which states that ‘[BNG should] Achieve nature conservation outcomes that demonstrably exceed existing obligations (i.e. do not deliver something that would occur anyway)’.

2.26. The principle in question in this particular instance, is whether the habitats within the Ancient Woodland buffer zone would be necessary in any case, and should therefore be excluded from the BNG calculations. However, the types of habitat which are appropriate to include within Ancient Woodland buffer zones are clearly set out in the joint Natural England/Forestry Standing Advice, and include all types of semi-natural habitats, including grassland of the type which is present within the site. It does not stipulate the use of scrub per se., or that grassland should be enhanced to be species-rich. In other words, were the buffer simply to constitute a

¹ CIEEM, CIRIA, IEMA (2016) *Biodiversity Net Gain: Good practice principles for development*.

² CIEEM, CIRIA, IEMA (2019) *Biodiversity Net Gain: Good practice principles for development. A practical guide*.

strip of retained grassland then it would still have the function of a buffer zone desired by the guidelines, which seek to protect tree roots, and put distance between ancient woodland and the potentially harmful activity.

2.27. As such, we regard it is perfectly appropriate to assume that the baseline BNG scenario in this zone is the original 'modified grassland' which is present within the field. Under the proposals this zone is then enhanced to provide additional biodiversity benefits, and we consider it appropriate to include the additional biodiversity gain provided by the creation and enhancement of these habitats within the overall BNG Assessment.

2.28. This is further substantiated by the Defra guidance note issued in May 2023 which covers the subject of additionality³, which states that

"If you're creating or enhancing habitat as part of your development, you may be able to count this towards your BNG.

You can still do this if the habitat required for your development is to:

- *comply with a statutory obligation or policy, for example green infrastructure, environmental impact assessment (EIA), compensation or sustainable drainage"*

Hedgerows

2.29. In their consultation response of 26 September 2023 KCC EAS comment that:

"Proposed hedgerows include those which are non-native ornamental. As reflected by the unit value relative to the native hedgerows proposed, these are of minimal value to biodiversity. Furthermore, planting of non-native species in such close proximity to ancient and priority woodland is not acceptable in terms of maintaining the ecological integrity of these habitats;"

2.30. The amended landscape proposals (FPCR Plan ref: 10745-FPCR-ZZ-XX-DR-L0003-0008 Detailed Planting - Combined) has addressed this point, and any ornamental hedges or significant areas of non-native shrubs have been removed. As such, the hedgerows are either a) single species (Beech), or b) native mixed hedgerows (comprising Field Maple, Dogwood, Hazel, Hawthorn, Spindle and Holly).

2.31. A further comment relates to 'Hedgerow H1':

"Paragraph 3.4.1 of the BNG assessment report states that "there are no linear features (such as hedgerows and ditches) within the site". Contrary to this, paragraph 4.1.1 states "It is anticipated that hedgerow H1 (N.B. referred to as priority habitat within the ecological assessment report) can be fully retained under the proposals." The metric requires amendment to consider existing linear features".

2.32. H1 was used to refer to the southern boundary of the site (between the site and Maidstone Road). However, the feature can be more accurately described as scrub (patchy and varying between scattered and dense in place) which is associated with a dry ditch/swale. It was also outside the red line of the site at the time of the previous application, and so was eventually not included within the BNG Assessment. Unfortunately, despite this, there is still a couple of incorrect references to H1 which remain (Paragraph 4.1.1 of the BNG report, and paragraph 4.3.2 of the Ecological Appraisal).

³ <https://www.gov.uk/guidance/what-you-can-count-towards-a-developments-biodiversity-net-gain-bng>

2.33. In the revised BNG Assessment, the scrub is now included within the red line area (which has been extended to the south). The majority is retained, with a small amount removed to accommodate the site access. It is treated as an area of habitat for the purposes of the metric calculations, and not a linear feature, which we consider the most appropriate way for it to be treated. In addition, we note that the dry swale alongside the road is unlikely to qualify as a 'ditch' under the BNG Assessment, since it has no defined channel, and is considered to be very unlikely to hold water for more than 4 months of the year (see Table 9 of the BNG User Guide⁴). As such there are no linear features within the site boundary which has been assessed.

3. Conclusion

3.1. In conclusion, this Technical Note addresses all of the comments raised by consultees and demonstrates the compliance of the proposals with policy.

4. Appendices

- KCC EAS Consultation Response Dated 27 March 2023
- KCC EAS Consultation Response Dated 26 September 2023

⁴ The Statutory Biodiversity Metric. User Guide (draft). November 2023



ECOLOGICAL ADVICE SERVICE

TO: Nick Roberts

FROM: Luke Wallace

DATE: 27 March 2023

SUBJECT: MC/23/0284 / Land at Blowers Wood, Hempstead

The following is provided by Kent County Council's Ecological Advice Service (KCC EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the County Council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application; and whether sufficient and appropriate ecological information has been provided to assist in its determination. Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the Planning Officer, who will seek input from the EAS where appropriate and necessary.

The full net-gain metric calculations have not been provided and, from the summary of the headline results provided, we can see the trading rules have *not* been satisfied. This means the inputs are incorrect and, as such, the 'positive result' of the metric cannot be relied upon as accurate.

We remind the applicant that under section 40 of the NERC Act (2006) and paragraph 174 of the NPPF (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

We advise that full metric calculations, accompanied by condition assessments and with the trading rules satisfied, are provided prior to determination of the application.

It is our view that, given the proposed layout, a biodiversity net-gain is likely not being achieved on-site. We also have serious concern at the potential impact to the surrounding ancient/priority habitat woodland due to the lack of quality open/green space on-site. A lack of quality open space is likely to entail a higher amount of recreational pressure (e.g., dog walking) within these sensitive habitats.

We are mostly satisfied with the protected species information, although we query if the site's reptile population will be able to persist on-site long-term with the lack of open/green

space on-site. A very sensitive lighting strategy will be needed to prevent deterioration to the surrounding ancient/priority habitat woodland.

Our comments will be available for revision upon receipt of the above information.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Luke Wallace
Biodiversity Officer

This response was submitted following consideration of the following documents:
Update Habitat Survey and Biodiversity Net Gain Assessment. Aspect Ecology. Jan 23.
Ecological Appraisal. Aspect Ecology. Jan 23.



ECOLOGICAL ADVICE SERVICE

TO: Nick Roberts

FROM: Clair Thackray

DATE: 26 September 2023

SUBJECT: MC/23/0284 / Land at Blowers Wood, Hempstead

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We understand that the Biodiversity Net Gain (BNG) information has been provided on a provisional basis subject to future amendments to the site layout. We have reviewed the information provided and the rebuttal from Aspect Ecology (August 2023, via email) and have the following comments regarding current and future BNG calculations for the site:

- **Metric trading rules** – Natural England advise that in exceptional ecological circumstances, proposals which do not comply with the trading rules of the metric may be accepted. Natural England have advised local authorities that the term 'ecologically exceptional' refers to highly unusual situations, such as creation of salt marsh, reservoir decommissioning, or re-meandering of a river. Even in these circumstances, a substantial burden of evidence will be required. There we advise that breaching trading rules based on scrub loss is not considered ecologically exceptional and the landscaping proposals should be amended accordingly;
- **Achievement of net gain** - With regard to our previous comment that biodiversity net gain is unlikely to be achieved this refers to our concerns that, while at least 10% net gain may be theoretically possible under habitat proposals documented in the metric, given the intensive development layout and lack of open space for recreation there are doubts that successful management to create the proposed target habitats is achievable;
- **Ancient Woodland Buffer** - We are very concerned at the proposal for the ancient woodland buffer to form the largest area of open space within the development and for less than 50% of its width to be managed as scrub habitat. We advise that the

likelihood that this buffer will prevent loss and/or deterioration of the ancient woodland through recreation impacts is negligible and no compensation strategy has been proposed;

- **Priority Habitat Woodland** - We are similarly concerned with potential impacts of recreation on the priority habitat woodland located along the site's south-western boundary. Paragraph 84 of the ODPM Circular 06/2005 states that "...*potential effects of a development, on habitats or species listed as priorities... ..are capable of being a material consideration in the preparation of regional spatial strategies and local development documents and the making of planning decisions*". Appropriate mitigation is required where impacts on priority habitat are likely. In our view the current design layout does not provide sufficient mitigation and no compensation strategy has been proposed;
- **Good Practice Principle 7: Additionality** - The ecological assessment describes how proposed scrub and grassland habitat within the 15m buffer to the ancient woodland will provide mitigation for ancient woodland and protected species including reptiles and hazel dormouse. As such, under the principle of additionality, these habitat areas cannot be included within the calculation above no net loss. Natural England have advised that evidence of additionality can be shown by the provision of two metric calculations. The BNG assessment report should also include a plan showing clearly those habitats required for mitigation and those which are not;
- **Hedgerows** – We have two comments regarding hedgerow habitat:
 - Proposed hedgerows include those which are non-native ornamental. As reflected by the unit value relative to the native hedgerows proposed, these are of minimal value to biodiversity. Furthermore, planting of non-native species in such close proximity to ancient and priority woodland is not acceptable in terms of maintaining the ecological integrity of these habitats;
 - Paragraph 3.4.1 of the BNG assessment report states that "there are no linear features (such as hedgerows and ditches) within the site". Contrary to this, paragraph 4.1.1 states "It is anticipated that hedgerow H1 (N.B. referred to as priority habitat within the ecological assessment report) can be fully retained under the proposals." The metric requires amendment to consider existing linear features.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Clair Thackray
Biodiversity Officer

This response was submitted following consideration of the following documents:

Rebuttal to KCC EAS. Aspect Ecology. August 2023 via email.

Update Habitat Survey and Biodiversity Net Gain Assessment. Aspect Ecology. Jan 23.

Ecological Appraisal. Aspect Ecology. Jan 23.

Indicative Landscape Strategy. FPCR. Feb 2023.

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The logo for Aspect Ecology Ltd features the word "aspect" in a white, lowercase, sans-serif font. A thin, light blue diagonal line is positioned above the "t", extending from the top of the letter to the right.

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