

**Joint Examination of the Welwyn Hatfield Local Plan 2013-32 (WHLP) and the East Herts District Plan 2011-33 (EHDP)**

**Birchall Garden Suburb (BGS)/East of Welwyn Garden City**

**Supplementary statement by Peter Oakenfull ACIEEM**

This submission provides evidence on the following matter raised by the Inspectors:

**Matter 3 Ecology**

**Appended documents to this statement**

- A Status of Wildlife Report 2005-2009 Commons LNR species
- B Wessex Archaeology report 2011
- C Summary of bird ringing Commons LNR 1997-2017
- D Letter of support, Trevor James former head of Hertfordshire Biological Centre, now Herts Ecology
- E Letter of support, Graham Appleton, British Trust for Ornithology
- F Herts Ecology 2015 report to Colin Haig, WHBC

**It is my opinion that Birchall Garden Suburb should be removed from the Local Plans of both Welwyn Hatfield Borough Council and East Herts District Council at this stage of the Local Plan process on the grounds that;**

**Neither council have sufficiently carried out or commissioned full strategic ecological assessments to evaluate the impacts of multiple developments on the corridor of land bordering the A414 to the south and east of Welwyn Garden City, including Birchall Garden Suburb to establish current levels of biodiversity.**

**Both councils have accepted Tarmac's limited ecological evaluation of the impacts posed by Birchall Garden Suburb, studies that are incomplete and that have not considered all the species and habitats listed as required under the NERC Act 2006.**

**Peter Oakenfull ACIEEM**

**8<sup>th</sup> January 2018**

*Matter 3 – Ecology*

*Issues raised by the inspectors*

*9) Has an overall holistic survey of the wildlife importance of this area that looked at the interrelationship between the various sites been undertaken, together with risk assessments?*

**No, neither Welwyn Hatfield Borough Council (WHBC) nor East Herts District Council (EHDC) jointly or individually carried out a full and appropriate Strategic Ecological Impact Assessment of Birchall Garden Suburb (BGS). They have also failed to consider BGS in its context with other proposed developments concentrated to the south and east of Welwyn Garden City (WGC) in the proposed Local Plan and the impacts posed to existing wildlife.**

**Both councils have failed jointly and individually to ensure a proper ecological assessment was carried out by themselves and have only relied on a simplistic and incomplete species and habitats assessment of the ecological value of BGS carried out by Tarmac.**

**The latest BGS surveys published in November 2017 for the hearings to be held on 30<sup>th</sup> January 2018 by Tarmac are incomplete by not considering all species listed within the NERC Act 2006 that are present on the land.**

**Tarmac has failed to establish the full impacts of BGS by not assessing the full ecological value of the site or the value of the adjacent wildlife sites and the connecting landscape by its failure to fulfil best practice industry standards for scoping studies, as published by the Chartered Institute of Ecology and Environmental Management by not including all key stake holders to establish a full constraints plan.**

**This has therefore led to a limited and insular species assessment for the BGS resulting in a further incomplete suite of ecological habitats and species reports published in November 2017 by them that still fall short of those species and habitats listed as important by the NERC ACT 2006.**

**Welwyn Hatfield Borough Council (WHBC) and East Herts District Council (EHDC) have taken the site forward within the Local Plan on this flawed ecological assessment.**

**In August 2016 The Central Hertfordshire Green Corridor Group met with both EHDC and WHDC heads of planning and lead officers and advised them of the failings of Tarmac's Ecological scoping surveys and findings. Both councils were advised at the time of their own responsibilities to fully consider species and habitats listed under the NERC Act 2006 and that Tarmac had failed to do so. Neither council has currently responded to the list of 25 questions posed by the group at this meeting.**

*10) If so, has this led to a strategy to minimize the impacts on and achieve net gains to biodiversity within the area during and following the development?*

**No, for the reasons above both EHDC and WHBC have not determined the correct ecological value of either BGS or the impacts of multiple developments. Their strategy therefore fails to show minimized impacts and more importantly in its current form the Tarmac masterplan will cause negative biodiversity and will not achieve net gains.**

**This is supported by the findings of the ecology report (ELMAW) independently commissioned and published by Hertingfordbury Parish Council in September 2017 for the central and western end of the green corridor affected by BGS**

11) *In the context of the area's wildlife, is the Sustainability Appraisal sufficiently robust to act as a justifiable basis for an overall assessment of this development proposal?*

**No**

12) *Has a joint Sustainability Appraisal been undertaken to ensure that the overall cumulative impacts of this proposal, within the two local authority areas, have been fully assessed and considered?*

**No**

13) *Is there a cross boundary biodiversity plan at a landscape-scale that looks at the cumulative impact of the whole development?*

**No**

14) *What mitigation measures are proposed to maintain the functioning of the area's ecological assets? And what confidence can be placed on their robustness and adequacy to minimize any impacts on biodiversity and provide net gains in biodiversity where possible?*

**Tarmac has failed to consider all NERC species and to consider interconnecting important wildlife sites and habitats in their assessments of BGS including the statutory protected Commons Local Nature Reserve. WHBC and EHDC have relied on the developer's assessment and by not commissioning their own independent strategic ecological assessment have failed to establish the value of existing biodiversity and cannot be confident in ensuring minimal impacts let alone net gains for biodiversity.**

15) *Has sufficient attention been paid to the protection and enhancement of wildlife sites and their inter-linkages?*

**No.**

**The masterplan for BGS has taken all available arable land and proposed development over in its entirety and this will isolate sites and species rather than enhance connectivity.**

**Further to this they have failed to consider the former landfill site as an interconnecting landscape feature of high ecological value and propose this area as a park for recreation. Data in the ELMAW report shows that this area holds a diverse assemblage of bird and mammal species.**

**Data held by the British Trust for Ornithology confirms that individual wildlife sites found within the river corridors of the Lea and Mimram, forming part of the Green Corridor which is considered as ecologically functioning and valuable to existing ecosystem services by the Central Hertfordshire Green Corridor Group in their report, are connected by several protected farmland bird species.**

**Data from Herts Natural History Bird Club confirms the landfill site is important as a breeding site for several key farmland bird species along with schedule 1, red and amber listed species and provides foraging habitat for breeding Barn Owls as well as other raptor species, a key data statistic missed by Tarmac.**

A key example of this is the failure to involve important data holding stakeholders of the Commons Local Nature Reserve. It is a site that has statutory protection from development and has not been considered in any of the Tarmac studies.

Ringling data from farmland bird monitoring from the Commons area over the past 20 years is held by both local bird ringers, who monitor the Commons nature reserve along with other nature reserves in the green corridor and is also on the British Trust for Ornithology's national bird ringing database. These data show wildlife site connectivity through winter feeding activity and the clear dependence of certain farmland bird species that rely on foraging and roosting habitats between sites, including farmland within the arable landscape.

These data also show links to habitats in Norfolk, Sussex and Rymeads in Hertfordshire as well as local links to sites located on both the River Lea and River Mimram and managed arable farmland in the corridor and adjacent counties.

Of less significance because of its rareness where winter visiting Bramblings caught and ringed in the annual sown winter sacrificial crop at The Commons LNR and re captured in Sweden in the following spring. A male chaffinch, originally ringed in Helgoland, Germany, was also caught during the same winter.

As former warden of the Commons LNR and the principle recorder of species for 17 years I am able list an example of key species and habitat that have been omitted from the ecological assessment by Tarmac. No consideration or mitigation has been proposed for the isolation of these protected species that have been recorded within the reserve and in some cases the surrounding arable land that include; Grey Partridge, Great Crested Newt, Dormouse, Barn Owl, Cuckoo, Turtle Dove, Polecat, Brown Hare, Harvest Mouse, Slow worm, Grass Snake, Hedgehog and 7 species of bats.

I am deeply concerned that the owners of the Commons LNR, WHBC, who declared it as a Local Nature Reserve and who have promoted it for its unique biodiversity, funded the volunteer management and the monitoring of its species, appear to have forgotten their statutory duty to protect this local nature reserve and its plethora of protected species from adverse development under the NERC Act 2006.

WHBC have not questioned any masterplan that Tarmac have produced showing housing encircling the majority of the reserves eastern boundary that almost completely isolates it from open countryside, apart from a narrow corridor that is minimal in its size. Given that the council were informed in a report, Appendix F, from Herts Ecology in 2015 clearly highlighting the impacts of BGS on the nature reserve and adjoining wildlife site of Commonswood, of housing cutting off any connection to the surrounding countryside that was not acceptable.

The same report also highlighted that development already granted planning consent on the former site of the Queen Elizabeth 11 Hospital site to the west of the reserve, would also compound the isolation of the Commons LNR and the Commonswood Wildlife Site

Blackfan Fen, is a priority habitat under NERC 2006 and an area of the Commons Local Nature Reserve that is a unique example of ancient lowland fen in Hertfordshire. It is known for its high biodiversity of protected mammals, amphibians, endangered wetland bird species and a diverse

plant community. It sits below the arable ridge to the east that is proposed to be covered by housing in the BGS masterplan.

In 2011 a layer of consolidated peat was uncovered by emergency sewer work. A study was commissioned to investigate its age and in the autumn 2011 Wessex Archaeology took several samples for detailed analysis. Radiocarbon dating found the initial formation of the peat began as the Romans left Britain around 450 AD and was covered by alluvium in the late Middle Ages.

The report, Appendix B, to this statement concluded the data of complete pollen sequence from the peat is one of only two sequences found in southern Britain and makes such data of national importance.

The continued existence of the fens wetland communities and the fabric of the early peat that continues to grow to date is under direct threat from the proposed housing by Tarmac's failure to carry out a full scoping study and impact assessment that would have highlighted the need for a full hydrology study of the area to consider the effects of development.

*16) Will the priority habitats of species of national and international importance found in the area be preserved, restored and/or recreated when this development is implemented?*

Preserved, No, BGS failed to assess the proper value of the farmland and its significance of linking ancient and important diverse wildlife sites that hold significant reservoirs of biodiversity. The current masterplan will remove all arable land and build over its entirety to construct BGS. The farmland is the link for key arable species while also acting as a dispersal route for large land mammals for establishment and continuing existence in the corridor.

While tarmac make the odd case for minimal retention of habitat for mitigation, which even only exceeds to a very narrow strip leading from the Commons Local Nature Reserve, down to 20 metres at one point, the main thrust of BGS is wholesale removal of farmland. This will only achieve severe adverse effects on biodiversity in severing the links between wildlife sites for arable species that are recorded such as grey partridge, Polecat, Brown Hare, Harvest Mouse, Turtle Dove, Cuckoo, Barn Owl, skylark, Yellowhammer, Reed Bunting and Linnet, all disregarded by the developers species surveys and endangered ones that, do not frequent housing estates.

A key area of their misjudgement is their proposal to turn the ecologically important neutral grassland of the former landfill site, established since capping over the past 30 years into parkland for recreation that will displace hundreds of species, an area not even considered as important for wildlife, let alone mitigated for by Tarmac. The value of this area is clearly demonstrated by the number of species recorded and listed within the ELMAW ecology report commissioned by Hertingfordbury Parish Council.

Tarmac's proposal to turn this diverse area of species rich grassland into parkland for recreation as mitigation is its only compensation for the whole BGS site allocation, including the loss of the arable areas. This will create negative biodiversity. Farmland and wetland bird species, along with farmland mammals and common species will be driven from this area of the corridor and prevent movement between local wildlife sites in the corridor.

**This will be a direct result of Tarmac failing to consider all protected species listed by the NERC Act that must be considered.**

**Restored, there is no need to restore already functioning priority habitats such as the landfill grassland. As neutral grassland it is already valued as important in the Hertfordshire Biodiversity Action plan as a key specific target in that document for habitat creation in this county. The grassland already provides for the existing diverse assemblage of species to function as a wildlife community. It is better to consider what of these species will be lost when the arable lands are removed and filled with housing and the grass is mown for recreation.**

**Recreated, there will be no land left in the ownership of Tarmac to recreate or to compensate for isolation of individual sites. There may be an attempt to propose biodiversity offsetting as a way of mitigating the inevitable negative biodiversity caused by Birchall Garden Suburb.**

**Biodiversity offsetting has not been evaluated enough and pilot studies have not concluded it does work. Yes, organisations are promoting this as the only way to sustain biodiversity but it can only be applied to habitats, there are no provisions for valuing species within the calculator. Arable habitat is always considered as low in biodiversity and applies the lowest metric. In the case of the arable, and certainly to that within the eastern bounds of BGS it is highly important because of the plethora of farmland species recorded using it. Therefore it cannot be applied to the species rich mosaic that BGS proposes to cover.**

**I would have expected Tarmac to have consulted with local ecologists as key stakeholders at the outset in a proper consultation given the inevitable impacts of such a large scale proposal as BGS. A full constraints plan would have highlighted them to the fact that there is nowhere to recreate if you build over all the arable land.**

17) If so how will this be achieved?

**It cannot be achieved under current BGS proposals**

*18) Are the requirements of Section 40(1) of the Natural Environment and Local Communities Act 2006 likely to be met through this development if it is implemented as proposed?*

**The requirements of the 2006 NERC Act require no impacts causing negative biodiversity and for development to deliver net gains and this can-not be met by BGS being implemented as proposed.**

*The Habitat Regulations three stage test states that tests being applied are that a licence can be granted for the purposes of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'. Imperative reasons of overriding public interest may be applicable to development as identified and approved by the local planning authority.*

**Without a full and complete ecological assessment of Birchall Garden Suburb being carried out to determine the full impacts on its European Species then a licence cannot be determined and granted.**

*The second test, that **there is no satisfactory alternative** is met if it can be shown that all alternative options to meet the need such as retaining the building or redesigning the scheme to accommodate the bats or limit disturbance to a European protected species, has been considered and found to be inadequate to meet the need.*

**There are alternative sites that were considered as suitable for inclusion in the WHBC Local Plan but were not taken forward that may lower the impacts on biodiversity.**

*The third test, that **'the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'** is met, if suitable mitigation and compensatory measures can be formulated and implemented to satisfy Regulation 44(3)(b) which would result in no net loss in the local population status of the species concerned, taking into account factors such as population size, viability and connectivity. Mitigation should aim to maintain a population of equivalent status on or near the original site.*

**Impacts on multiple protected species would be significant within the BGS proposal. Suitable mitigation has not been proposed for the removal of all interconnecting arable habitats and therefore at the present time it would be detrimental to the maintenance of the populations and that species concerned cannot maintain a favourable status in their natural range.**