



**WELWYN
HATFIELD**

**Joint Examination of the
Welwyn Hatfield Local Plan 2013-2032
and the
East Herts District Plan 2011-2033**

Birchall Garden Suburb/East of Welwyn Garden

Examination Hearing Statements

Matters and Issues

Matter 3 - Ecology

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Birchall Garden Suburb contains a number of international and local wildlife sites as well as areas of ancient woodland, some of which contain protected species. The NPPF at paragraph 117 requires that planning for biodiversity should be undertaken at a landscape-scale and across local authority boundaries. It also says that the planning system should minimize impacts on biodiversity and provide net gains in biodiversity where possible.

Issues

- 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?**
- 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?**

Response

- a) These two questions are taken together, as question 10 leads on from question 9.
- b) There are no wildlife sites of international (SAC, SPA etc.) – or indeed national (SSSI) – value in or immediately adjacent to this development area or the Green Corridor as a whole. The Corridor does embrace two Local Nature Reserves (LNR), both of which lie outside the site - The Commons LNR which adjoins the site and Stanborough Reedmarsh LNR and HMWT reserve, both statutory sites in respect of LNR status.
- c) There are a number of Ancient Woodlands within the site – Henry Wood, Rolls Wood, parts of Greater Captains Wood and Holwell Park Wood, and Birchall Wood (replanted Ancient Woodland) which are designated as Local Wildlife Sites but as the Strategy Diagram indicates (Welwyn Hatfield Local Plan, Figure 12 East Herts Local Plan Figure 13.2), these are all to be protected from development. Buffer zones around these areas of ecological importance (and around other woodland areas) will include additional planting to enhance their ecological value and provide an appropriate land management strategy. The shared policy approach includes provision for open spaces to contribute to wider ecological networks and for safe routes for wildlife, protecting and enhancing wildlife assets.
- d) Both Local Planning Authorities hold records of the sites of wildlife importance, which is the first reference when considering potential impacts. For example, the East Herts Supporting Document (**SSS/001**) sets out how wildlife has been taken into account throughout the earliest stages of the Plan-making process. Areas of Search were subjected to an appraisal of whether the Area contained or was in proximity to sites of wildlife importance (Chapter 4, Appendix B, Section 11). A hierarchy of sites was considered – European Sites: Special Areas of Conservation, Special Protection Areas and Ramsar Sites; National Sites: Sites of Special Scientific Interest and National Nature Reserves; and Local Sites: County Wildlife Sites and Local Nature Reserves. This assessment determined the presence of several Local Wildlife Sites and indicated the types of habitats and therefore species that may be supported by

these habitats. In Welwyn Hatfield sites with significant environmental constraints were ruled out an early stage. This included where all, or the majority, of a site was designated as a Special Area for Conservation (SAC), a Special protection Area (SPA), a Site of Special Scientific Interest (SSSI), a Registered Historic Park and Garden (HPG), a Local Nature Reserve and/or a Local Wildlife Site. This is set out in the methodology for The Housing and Economic Land Availability Assessment (HELAA) (HOU/19). A more detailed site specific assessment was then carried out on sites where there was the potential to impact on a neighbouring site of ecological importance.

- e) The second stage is the engagement of the Herts and Middlesex Wildlife Trust (HMWT) and the Hertfordshire Ecology Team who work with the Hertfordshire Environmental Records Centre (HERC) which maintains information about sites of wildlife importance. The Ecological Network Mapping database is a county-wide project which updated the previous Hertfordshire Biodiversity Action Plan 'High Biodiversity Areas' and provides a landscape scale understanding of habitat networks. It is based on existing site data, plant records and aerial photo interpretation to provide an understanding of the ecological characteristics of the county and to identify potential areas for conservation priority.
- f) To do this it highlights a series of areas as:
 - i; Existing S41 NERC Act Priority Habitats. These are the most valuable sites – most if not all of which are SSSIs or recognised as non-statutory Wildlife Sites;
 - ii). Existing habitat not qualifying as Priority Habitats;
 - iii). No habitats mapped (high priority for habitat creation);
 - iv). No habitats mapped (medium priority for habitat creation);
 - v). No habitats mapped (lower priority for habitat creation).
- g) Areas of high, medium and low priority (or potential) are identified primarily as buffers of existing habitat / sites. The result is a logical representation of resources in that there is greater biodiversity potential associated with existing sites than areas with no known or limited interest. However it also creates apparent areas of greater value which are only based on priority / potential rather than existing biodiversity. This can be misleading given that areas with collectively less potential may support individual sites of considerable local value or potential especially if a landowner is interested in undertaking positive conservation activities.
- h) Given the high level status of the Network Mapping, it was considered appropriate to ensure up to date surveys were undertaken to inform the Plan-making process and the potential masterplanning of the site. As such, the Councils invited site promoters to undertake ecological surveys in collaboration with HMWT and Herts Ecology. The site promoters have undertaken a comprehensive suite of surveys in order to understand the importance of the site as a whole in terms of wildlife importance. The Ecology Baseline Briefing Note included in Examination Document (East Herts ref: **ED170** and Welwyn Hatfield ref: **EX36**) lists the surveys undertaken and summarises the key findings of the survey work. Surveys undertaken include:

- Appendix A: 2017 HERC Data Search - desktop study from HERC
- Appendix B: Amphibian Survey Report 2014 (PPA)
- Appendix C: Amphibian Survey Update 2017 Great Crested Newt Report
- Appendix D: Badger Survey Final 2017 (SLR)
- Appendix E: Bat Survey Report Dec 2017 (PPA)
- Appendix F: Bird Survey Report 2017 (PPA)
- Appendix G: Dormouse Survey Report Final 2017 (PPA)
- Appendix H: Invertebrate Report 2017 (PPA)
- Appendix I: Phase 1 Habitat and Flora Survey Report 2017 (PPA)
- Appendix J: Reptile Survey Report 2017 (PPA)
- Appendix K: Reptile Survey Report 2017 (SLR)
- Appendix L: Water Vole Report 2017 (PPA)
- Appendix M: Water Vole Report 2017 (SLR)

- i) Each of the surveys identifies the value of species, their vulnerability where appropriate, and sets out how development may affect either the habitat or species. Where applicable, the risks associated with no positive management of a habitat are highlighted. The surveys also consider the inter-relationship between different parts of the site, particularly in regard to more mobile species such as birds and bats. There are clear relationships between ecological features both within and in the vicinity of the site and the species that have been recorded to be active within the site boundaries. For example, the large expanse of open grassland on the former landfill part of the site provides nesting and foraging ground for birds and bats that roost in nearby Panshanger Park and the river corridors of the Mimram and Lea. This previously restored habitat has benefitted from low disturbance and informal management, making it attractive to a variety of species that were previously not found or were displaced due to the former use as gravel pit then landfill. This area of land will remain open grassland, enhanced through a management programme which balances current and future human recreation demands with the needs of species in the area.
- j) The surveys, together with the Green Infrastructure Plans and Ecological Network Mapping, provide a comprehensive understanding of the ecological value of the site, and the role the site plays within the wider ecological network. The site lies between two west-east river valleys which are recognised as key ecological assets, which are not only a key feature through this part of Hertfordshire, but provide the greatest opportunity in terms of enhancing biodiversity through projects which improve the variety of complementary habitats found within and in proximity of the site.
- k) The joint policy for the site and each Local Plan directs development to areas of least ecological value, seeks to protect those areas of highest value and implicitly requires development to achieve net gains to biodiversity through a process of avoidance of impact, minimisation of impact and mitigation through enhancement and or compensation where appropriate. It is proposed to make a Main Modification to the policy in each local plan to make this requirement explicit:

landscape and planting **“Protection and enhancement of areas of ecological importance through a landscape-led green infrastructure strategy and an**

appropriate land management strategy to achieve net gains to biodiversity across the site.”

- l) A further modification has also been proposed to the Strategy Diagram in both Local Plans in response to concerns raised by Historic England, incorporating a wider green buffer along the A414 which will also result in biodiversity gains.
 - m) The design of this site will be subject to the masterplanning process and it is the intention of both Local Planning Authorities to prepare and adopt a joint Supplementary Planning Document, which will guide development on the site. Planning for biodiversity has been, and will continue to be, undertaken across local authority boundaries consistent with the NPPF. The process of collaborative masterplanning will ensure that parties with an interest in the ecology of the site will have an opportunity to input into the design of the development in order to ensure that the development will create net gains to biodiversity.
 - n) Planning conditions and a Section 106 agreement will then be used to secure both during and after development the delivery of the aspirations set out in the masterplan and SPD.
- 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?**

Response

- a) Yes. The approaches taken in undertaking the Sustainability Appraisal (SA) of each local plan are compliant with the SEA Regulations, NPPF and Planning Practice Guidance, and summarised below.

East Herts SA (AECOM):

- b) The method for how site options have been considered through the SA process is presented in Appendix V of the SA Report (**SUB/004**). As explained in Appendix V, the GIS based method allows for a consistent and comparative analysis of site options; however, it does have limitations and these are clearly set out.
- c) The method includes criteria (presented in Appendix V, Table B) relating to international, national and locally designated sites for biodiversity. The findings of the SA, presented in Table C of Appendix V, highlights that site EWEL1 (East of Welwyn Garden City) is not in close proximity to any European sites/SSSIs and that the site contains or is adjacent to Local Wildlife Sites and Ancient Woodland.
- d) While it is recognised that distance in itself is not a definitive guide to the likelihood or relative significance of effects on biodiversity, it does help to differentiate between the performance of site options at a district scale. The nature and significance of effects is dependent on a variety of factors, including the precise scale, type, design and layout of development and this information was - inevitably - not available for all site options at the time of the appraisal.
- e) The SA of the Draft (Proposed Submission) Plan presented in Part 3 of the SA Report, under the biodiversity and green infrastructure topic (Chapter 11), identifies that the allocation to the East of Welwyn Garden City contains a locally designated

wildlife site so there is the potential for direct impacts. It concludes that there is the potential for development to avoid designated sites on the basis of appropriate design and layout.

- f) As stated in Paragraph 3.2.2 of the SA Report (**SUB/004**), *“It is important to emphasise that the plan will be strategic in nature. Even the allocation of sites should be considered a strategic undertaking, i.e. a process that omits consideration of some detailed issues in the knowledge that these can be addressed further down the line (through the planning application process)”*.

Welwyn Hatfield SA (LUC):

- g) The SA is required to assess the likely effects of the local plan’s policies and proposals. It identifies the likely significant effects before mitigation is taken into account, and identifies local plan policies which will help to minimise negative effects.
- h) The SA method is set out in Chapter 2 of the SA Report (**SA/6**). The SA Framework is provided in Chapter 4 of the SA Report, with the assumptions for appraisal provided at Appendix 2 (**SA/6b**). A consistent and proportionate evidence base has been used to inform the assessment of all the reasonable alternative sites, irrespective of their size and location. This ensures consistency and objectivity.
- i) The Council has produced a Habitats Regulations Assessment (HRA) in accordance with the Conservation of Habitats and Species Regulations 2010 (as amended) (**SUB/2**). The HRA has informed the SA conclusions in relation to the impact of the Local Plan on European and Ramsar sites. Other biodiversity interests have been considered by the SA. The assumptions at Appendix 2 to the SA Report (**SA/6b**) set out how impacts on biodiversity are considered through the SA (see criteria 4.6), both in relation to designated sites, and other greenfield land (see also 4.8 re. water pollution and 4.10 for brownfield land). Criteria 4.4 addresses open space and landscape features which may also provide habitats and links.
- j) As set out the assumptions for criteria 4.6, the SA considers distance to designated sites, and ancient woodland, and for non-designated sites recognises that there may be impacts on biodiversity (see Appendix 2; **SA/6b**). These impacts may relate to protected species. The SA points to the mitigation required by local plan policies, to protect and conserve biodiversity (these are listed in the final column of the appraisal matrix).
- k) The SA is a strategic appraisal which considers all proposals consistently, and therefore does not include a review of detailed ecological survey submissions where these are put forward in relation to individual sites. Protected species surveys are required to accompany planning applications.
- l) The SA identifies potential significant negative effects of Site WGC5 (SP19/SDS2/WCG5), in relation to biodiversity prior to mitigation (**SA/6**, para. 6.225): *“6.225 The site is adjacent to the Commons Local Wildlife Site and Local Nature Reserve designated sites, which could give rise to a significant negative effect on biodiversity (SA objective 4.6).”* It goes on to note that mitigation will be provided through requirements to incorporate informal open space on the site to contribute to wider ecological networks and to provide safe routes for wildlife, protecting and enhancing wildlife assets. It notes that Policy SP 19 requires that these proposals

balance the need of recreation and nature, and mitigation is also provided by Policy SADM 16, which provides further safeguards regarding biodiversity.

Conclusion

- m) As set out above, the SA of each Local Plan has considered the potential effects of the proposal on wildlife. They are sufficiently robust to act as a justifiable basis for an overall assessment of this development proposal.

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?

Response

- a) No. A joint SA has not been undertaken and there is no reference to the need for such an appraisal within the PPG. However, the potential for cumulative effects has been considered.

East Herts SA:

- b) The East Herts SA Report (**SUB/004**) accompanying the Submission Local Plan does not identify that there is likely to be a significant negative cumulative effect on biodiversity as a result of the delivery of site EWEL 1 (East of Welwyn Garden City). It is predicted that the impacts of development on biodiversity can either be avoided or the significance reduced through the development management process, i.e. at the planning application stage. Effective communication between East Herts District Council and Welwyn Hatfield Borough Council should help to reduce the significance of any cumulative negative effects. It is also important to note that the Habitats Regulations Assessment (HRA) concluded that the East Herts Local Plan will not result in a likely significant effect, either alone or in combination, upon any European sites (**SUB/004**).

Welwyn Hatfield SA:

- c) The Welwyn Hatfield SA Report (**SA/6**) appraises Welwyn Hatfield Local Plan. It also considers Welwyn Hatfield's Local Plan in combination with other plans, including the East Herts Local Plan, and has taken account of the proposal to allocate land in both authorities to the SE of Welwyn Garden City.
- d) In relation to the proposal to the SE of Welwyn Garden City (SP19/SDS2/WCG5), para. 6.218 of the SA Report notes a joint Masterplan will be prepared by Welwyn Hatfield Borough Council and East Herts District Council. Para. 6.219 of the SA Report notes that the focus of the SA has been on the component of the site that falls within Welwyn Hatfield Borough, with the component of the site falling with East Herts being covered by the SA of the East Herts District Plan. The SA Report states that the combined development will give rise to cumulative effects that are likely to reinforce many of the effects identified in the SA of the Welwyn Hatfield component of the development.
- e) Cumulative effects of the Welwyn Hatfield Local Plan with other local plans are considered from para. 6.517-20 of the SA Report. Particular reference is made to the proposal for development to the east of Welwyn Garden City within both Welwyn Hatfield and East Herts District (para. 6.517). The SA notes that it is not possible to

be precise about the cumulative effects of the development proposed in the Welwyn Hatfield, but it is safe to conclude that there will be additional cumulative effects with respect to impacts on the landscape and biodiversity through increased urbanisation, and increased traffic arising from development with its associated emissions. The SA Report also refers to the positive effects in relation to the provision of housing and support for employment. The SA notes that planning for this scale of development provides opportunities for more strategic and coordinated approach to protecting, enhancing and managing the environment, including green infrastructure and habitat creation.

- f) In the preparation of the proposed allocation and guiding policy, both Local Planning Authorities have worked collaboratively to consider the cumulative impacts of development. Collaboration with other authorities has also been undertaken such as with the County Council's Education Planning, Environment (Ecology and Minerals and Waste) and Highways teams in order to understand the strategic as well as local impacts. Such considerations extend to the potential to enhance and create new passenger transport networks; create new education facilities that serve both Welwyn Garden City and the wider hinterland including Hertford; the potential impact of development on heritage assets within and around the site; the creation of new employment opportunities; the potential impact of additional vehicles on the local and strategic road network; and the potential impacts on ecological assets across the site.
- g) It is intended that the two authorities will continue to work collaboratively through the determination of future planning applications, including through the creation of a Steering Group comprising members and officers of both East Herts and Welwyn Hatfield Councils as well as Hertfordshire County Council where necessary. Such effective communication between East Herts District Council and Welwyn Hatfield Borough Council should help to reduce the significance of any cumulative negative effects.

Conclusion

- h) In conclusion, therefore, while a joint SA has not been undertaken in relation to this proposal (there is no requirement for this to be done), it is considered that the cumulative effects of development to the South East of Welwyn Garden City have been fully assessed and considered as part of the SAs of each local plan

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

Response

- a) Both Local Planning Authorities have digital mapping systems which detail all statutory and non-statutory wildlife assets, which is regularly updated through annual Wildlife Site Ratification Reports provided by the HERC and Herts Ecology. The Hertfordshire Strategic Highlights Green Infrastructure Plan (2011) (Welwyn Hatfield ref: **ENV/4**) which was prepared alongside a suite of Green Infrastructure Plans for districts and boroughs set out a number of opportunities at a strategic scale for improving and enhancing green infrastructure. These focus mainly on river corridors and projects that reconnect green corridors for people and wildlife.

- b) One of the main projects of the Hertfordshire Green Infrastructure Plan was the creation of a Hertfordshire Ecological Network Map. This was prepared in 2014 by the Local Nature Partnership with the intent of updating the Hertfordshire Biodiversity Action Plan and provides a landscape scale understanding of habitat networks across the county. This map and accompanying databases identify all existing assets and opportunities to enhance the wider network through the creation of new areas of ecological interest.
- c) This evidence forms the basis for understanding the cross-boundary implications of the site.
- d) The ecological surveys undertaken by the site promoter have complemented this prior knowledge of the biodiversity of the site. They have also provided their own Green Infrastructure Strategy which extracts information from the County and district/borough Green Infrastructure Plans and includes a strategy for minimising impacts on existing assets and creating enhancements within the site to sites beyond the proposed allocation. This will be tested through the process for preparing the masterplan and SPD for the site.
- e) The Strategy Diagram (Figure 13.2 in the East Herts District Plan and 12 in the Welwyn Hatfield Local Plan sets out broad parameters that will be secured through a collaboratively prepared masterplan. This identifies existing ecological assets which will need to be protected and enhanced through buffer planting, the Green Corridor and landscaping treatments. This, alongside the proposed policy and the collaboratively prepared masterplan, will ensure that cumulative impacts of development are minimised and mitigated on site.

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?

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

Response

- a) These two questions have been combined due to their similarity. See also the Councils' response to Questions 10 and 13 above.
- b) The detail of the mitigation strategy will be determined through the masterplanning process as the mitigation is integral to the design of the site and vice versa. The evidence on species and habitats fed into the consideration of where built development can occur, where more sensitive areas are located and what the design needs to encompass in order to avoid impacts, to minimise impacts and where necessary, to enhance through new landscaping or management schemes. The size of the site is such, that it is intended that areas of ecological importance within or immediately adjacent to the site are the focus of the mitigation strategy. However, once more detailed design stages are underway, it may be determined that, in addition, off-site compensation is an appropriate means of ensuring there is a net gain to biodiversity.

- c) Large areas of the site have relatively poor biodiversity as a result of its use as arable farmland, while other parts of the site such as the reclaimed landfill now comprise grassland and scrub providing a habitat to ground nesting birds. Mitigation will take a variety of forms commensurate to either the habitat or species. Firstly, the most sensitive areas of land will be avoided. Where built development is near to these areas, the design could comprise lower density layouts with more landscaping, for example. Bat and bird roosts are simple, inexpensive options, while additional landscaping and buffer planting between development and existing woodland edges not only enhances the area of habitat but provides opportunities for recreational access without compromising the quality of more sensitive 'deeper' areas of woodland. Other improvements to woodlands could include coppicing, selective or group thinning to enhance the structural diversity of the site.
- d) The creation of direct recreational routes through the open grassland area will help to reduce disturbance, while pro-active management of this space such as through grazing and cutting programmes will create opportunities to enhance areas of ecological interest. The availability of the means to deliver such management (grazing) will need to be given careful consideration, given the availability of suitable livestock, availability of suitable graziers and potential problems of livestock worry. There is already a programme of livestock grazing at The Commons Nature Reserve, so there are potential linkages to this programme.
- e) It is important to note that improvements to these existing sites of ecological interest alone may not represent 'net gain'. There will be indirect changes to the environment which may affect the more sensitive bird species for example. Therefore if these impacts cannot be mitigated on-site, suitable land will need to be found locally where rough grazing can be introduced to provide an area of undisturbed habitat that can be managed to attract such species. The likely best opportunity for this beyond the site will be within the Lea Valley.
- f) In addition to physical interventions, another effective way of managing the interaction between humans and wildlife is to provide information and education through signage, interpretation boards and land management regimes rather than fencing or physical barriers. This approach is a more passive means of protecting habitats as it engages more people, encouraging the stewardship of such spaces.
- g) One of the key drivers of the proposed policy and Strategy Diagram is the creation of new links between existing biodiversity assets through a green infrastructure and landscape-led approach across the site as a whole. The integration of sustainable drainage features into these spaces will create multi-functional areas that provide valuable ecological services such as flood prevention, urban greening and cooling, space for nature and recreation etc. Private gardens and public amenity space alongside tree-lined streets will also increase biodiversity across the site.
- h) It is the Councils' intention to work collaboratively with stakeholders on the preparation of a Supplementary Planning Document which will guide the creation of a masterplan and future development on the site. All forms of mitigation will be

determined through the detailed masterplanning stage and will be secured through condition and Section 106 Agreements. The proposed additional policy criterion requires the production of an appropriate management strategy for the site.

- i) In terms of biodiversity considerations during development, best practice should ensure the approach to development itself will take fully into consideration the local needs of biodiversity, in terms of protection of existing assets, methodology and timing. For such large scale projects, this is now usually ensured with the production of a Construction and Environmental Management Plan (CEMP) and overseen by an Ecological Clerk of Works. The CEMP can be secured by a condition of approval. Furthermore, it is essential that a comprehensive Landscape / Ecology Management Plan (LEMP) is agreed to ensure that all the open spaces and associated habitats have suitable management guidance. This document can also be secured by Condition. It will remain a working document and should also identify a mechanism for its implementation and review. It should be costed and provide the basis of the S106 agreement.
- j) Management requirements cannot be secured by Condition as this process is not suitable to deliver for ongoing management. A S106 Agreement will ensure that programmes outlined within the Management Plan will be implemented for the foreseeable future. In terms of biodiversity offsetting, the management plan will provide for a minimum of 25 years. Biodiversity Offsetting can be applied to sites within the development area and beyond it, if suitable agreements with relevant and compliant landowners can be made. There is significant potential to achieve this for the woodlands, Commons LNR and in the Lea Valley if the landowners are willing. The S106 provides a legal framework to enable costed plans to be implemented.

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?

17) If so how will this be achieved?

Response

- a) Section 41 of the Natural Environment and Local Communities Act 2006 requires the publishing of a list of habitats and species which are of principal importance for conservation of biodiversity in England. There are fifty-six habitats of principal importance, which are identified as requiring action in the UK Biodiversity Action Plan. There are 943 species of principal importance also identified as requiring action in the UK BAP. These lists remain in use despite the UK BAP being succeeded by the 'UK Post 2010 Biodiversity Framework' published in July 2012.
- b) The Phase 1 Habitat Survey undertaken screens out the majority of the habitats and species listed. Where evidence or potential evidence of their presence were identified, more detailed surveys were undertaken. These are all contained in the Examinations Documents for both local plans (East Herts ref: **ED170** and Welwyn Hatfield ref: **EX36**). Each of the surveys identifies the value of species, their

vulnerability where applicable and sets out how development may affect either the habitat or species. Where applicable, the risks associated with no positive management of a habitat are also highlighted.

- c) The surveys also consider the inter-relationship between different parts of the site, particularly in regard to more mobile species such as birds and bats. There are clear relationships between ecological features both within and in the vicinity of the site and the species that have been recorded to be active within the site boundaries. For example, the large expanse of open grassland on the former landfill part of the site provides nesting and foraging ground for birds and bats associated with the nearby Panshanger Park. This area of land will remain open grassland, enhanced through a management programme which balances current and future human recreation demands with the needs of species in the area.
- d) One of the key drivers of the proposed policy and each local plan as a whole is the protection and enhancement of habitats and species. With any development there will be some impact. Therefore the proposed masterplanning approach which will be underpinned by the comprehensive suite of surveys, will set clear parameters for development. The evidence on species and habitats feed into the consideration of where built development can occur, where more sensitive areas are located and what the design needs to encompass in order to avoid impacts, to minimise impacts and where necessary, to enhance through new landscaping or management schemes. The size of the site is such, that it is intended that areas of ecological importance within or immediately adjacent to the site are the focus of the mitigation strategy.
- e) Once more detailed design stages are underway, it may be determined that in addition, off-site compensation in the form of the creation of new replacement habitat or the enhancement of existing habitat in a nearby location is appropriate. Such approaches are more difficult and costly to achieve, particularly where different land owners are involved, which is why off-site compensation is a less preferred option. However, in the case of this particular site there is a wealth of potential locations which are already subject to management plans such as the Commons Nature Reserve, River Catchment Management Plans and Panshanger Park, towards which such focus could be directed.
- f) It is important to acknowledge the importance of biodiversity assets of non-statutory designation in terms of their contribution to wider ecological networks. As such, these will also be protected and enhanced through the policy requirements of both local plans.
- g) The masterplanning approach will also ensure that all possible opportunities to enhance existing assets and to provide a net gain to biodiversity across the site and within the wider ecological network will be taken. A detailed long term mitigation strategy will be secured through the use of planning condition and Section 106 Agreement. It is also the intention that the two authorities will prepare a Supplementary Planning Document which will set clear parameters on design.

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?

Response

- a) Section 40(1) of the Act requires local authorities to ‘conserve biodiversity’¹. Section 40(3) defines this duty as “*including, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*”.
- b) Both local plans have comprehensive policies designed to provide a net gain to biodiversity, through avoiding and minimising harm and mitigating through enhancements or compensatory measures, proportionate to the status of the site of ecological importance.

¹ <https://www.legislation.gov.uk/ukpga/2006/16/section/40>