



SIW Properties Ltd

Land West of Highfield, Sled Gates, Fylingthorpe

Ecological Appraisal

March 2022

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH
Company No. 07128076.

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1.0 INTRODUCTION

- 1.1 The following report has been prepared by FPCR Environment and Design Ltd on behalf of SIW Properties. It provides the results of an Extended Phase 1 Habitat survey including Preliminary Protected Species survey undertaken at a site on Land west of Highfield, Sled Gates, Fylingthorpe (central grid reference NZ940048).
- 1.2 The site has been identified for residential development the need for which is provided in accompanying planning documents submitted with the application. For this site it is not possible to retain the hedge in its current location due to highways issues, affecting visibility splays and corresponding affects to site access. It has also been established that the hedge meets criteria as important under the Hedgerow Regulations 1997 (further comments in this respect are given below).

2.0 METHODOLOGY

Desk Study

- 2.1 To support the field survey and further compile existing baseline information relevant to the site, ecological information was sought from third parties, including records of protected or notable species and sites designated for nature conservation interest. Organisations contacted included:
- North & East Yorkshire Ecological Data Centre (NEYEDC).
- 2.2 Online sources of ecological data were also sought including:
- Multi Agency Geographic Information for the Countryside (MAGIC) website (www.magic.gov.uk).
- 2.3 The search area of interest varied depending upon the likely significance and zone of influence of the data requested, as follows:
- A minimum of a 10km radius around the site was searched for sites with an international statutory designation; Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites.
 - A minimum of a 2km radius around the site for sites of national/regional importance with a statutory designation of Site of Special Scientific Importance (SSSI) or National Nature Reserve (NNR).
 - Up to a 1km radius around the site for sites of local importance with statutory designation of Local Nature Reserve (LNR), or non-statutory designation of Site of Importance for Nature Conservation (SINC) or the equivalent Local Wildlife Site (LWS); and
 - 1km search area for records of notable / protected species (i.e., including Species of Principal Importance under S41 of the Natural Environment and Rural Communities Act (NERC) 2006 and local biodiversity action plan species.

Field Survey – Habitats/Flora

Extended Phase 1 Survey

- 2.4 Extended Phase 1 habitat survey followed the methodology recommended by Natural England which largely follows guidance from JNCC 2010¹. The survey comprised a walkover of the site, mapping the principal habitat types present and identifying the dominant or characteristic plant species present within them.
- 2.5 Any habitats suitable for, or features with the potential to support, protected or notable species were also assessed and recorded with the survey undertaken on 4th March 2022 by a suitably experienced ecologist from FPCR.

Hedgerows

- 2.6 The hedgerows were assessed against the Wildlife and Landscape criteria contained within Statutory Instrument No: 1160 – The Hedgerow Regulations 1997² to determine whether they qualified as 'Important Hedgerows' under the Regulations. This was achieved using a methodology in accordance with both the Regulations and DEFRA guidance³.

3.0 RESULTS

Desk Study

- 3.1 A summary of the relevant information is provided below; original data provided by the consultees has not been included in this report. Locations of statutory and non-statutory designated sites referred to in the following section are illustrated on Figure 1 Consultation Plan.

Statutory Designated Sites

- 3.2 Two sites of international importance are present within 10km of the Site. Beast Cliff-Whitby (Robin Hood's Bay) SAC is located 1.2km southeast, and the North York Moors SAC and SPA located c. 770m west of the site. Both these areas are also covered by SSSI protection.
- 3.3 Beast Cliff-Whitby (Robin Hood's Bay) SAC is designated for its Annex I habitat; vegetated sea cliffs of the Atlantic and Baltic coasts, no other qualifying species or features are noted in its designation. The SSSI is designated for its geological interest, the coastal/woodland vegetation, and the zonation of marine biotopes on the rocky foreshore.
- 3.4 The key features of the North York Moors SAC SPA SSSI are the wet and dry heathlands dominated by heather *Erica sp.* and *Calluna vulgaris* which are the primary reason for designation. Blanket bogs are a qualifying feature but not a reason for the designation. The North York Moors SPA annex 1 species listed on article 4.1 of the citation include merlin *Falco columbarius* and golden plover *Pluvialis apricaria*. The citation states that during the breeding season the area regularly supports 2.7% of Great Britain's breeding population of merlin and 2.3% of the population of golden plover. No other species are listed in the citation.

Non-Statutory Designated Sites

- 3.5 There were no non-statutory sites within 2km search area.

¹ JNCC, (2010), Handbook for Phase 1 habitat survey - a technique for environmental audit, ISBN 0 86139 636 7

² <http://www.legislation.gov.uk/ukSI/1997/1160/contents/made>

³ DEFRA. (1997). *The Hedgerow Regulations 1997. A Guide to the Law and Good Practice*. London: HMSO

Protected Species

- 3.6 Records of protected and priority faunal species derived from the desk study consultees are provided in Table 1 Consultation Results below. Species records have been filtered to comprise protected and / or notable species within 2km of the site boundary from the last 25 years. The locations of the pertinent species records are mapped on Figure 1.

Table 1: Consultation Results

Species		Conservation Status	Total Number of Records within 2km	Location / Minimum distance of records from site boundary
<i>Pipistrellus pipistrellus</i>	Common Pipistrelle	Regs, WCA, Sch5. LBAP	6 From unknown to maternity roosts	330m north remaining records are to the west of the Site
<i>Pipistrellus pygmaeus</i>	Soprano Pipistrelle	NERCSPI, Regs, WCA, Sch5. LBAP	2 unknown to maternity roosts	515m and 660m west
<i>Pipistrellus sp</i>	Pipistrelle species	Regs, WCA, Sch5. LBAP	4 Unknown to summer roost	375m east
<i>Plecotus auritus</i>	Brown Long-eared Bat	NERCSPI, Regs, WCA, Sch5. LBAP	1 Summer roost	810m north west
<i>Myotis mystacinus</i>	Whiskered Bat	Regs, WCA, Sch5. LBAP	2 Up to 6 bats	330m north and 360m east
<i>Unknown Bat Species</i>	Unknown	Regs, WCA, Sch5. LBAP	8 Unknown to summer roost	360m east Remaining records surround site
<i>Vipera berus</i>	Adder	NERCSPI; WAC-Sch5_sect9.1; WACA-Sch5_sect9.5a LBAP	1 Count of 1 adult	1.2km north east
<i>Zootoca vivipara</i>	Common Lizard	NERCSPI; WAC-Sch5_sect9.1; WAC-Sch5_sect9.5a LBAP	1 Count of 1 adult	1.2km south east
<i>Anguis fragilis</i>	Slow worm	NERCSPI; WAC-Sch5_sect9.1; WAC-Sch5_sect9.5a LBAP	1 Count of 1 adult	1.5km southeast
<i>Meles meles</i>	Eurasian Badger	Protection_of_Badgers_Act_1992	2	1.1km north 1.3km south

Species		Conservation Status	Total Number of Records within 2km	Location / Minimum distance of records from site boundary
<i>Phoenicurus ochruros</i>	Black Redstart	Bern-A2; BoCC Amber; WACA-Sch1_part1	1	970km east
<i>Apus apus</i>	Swift	BoCC Red	20 Counts between 2 and 30	Closest record 320m east, records largely located towards the coast over 1km away.
<i>Neovison vison</i>	American Mink	INNS	1	1.3km southeast

Status Key: Regs = The Conservation of Habitats and Species Regulations 2017 (As amended). WCA = Wildlife and Countryside Act 1981 (as amended). Sch5 = Schedule 5 of WCA. NERCSPi = Species of Principal Importance, as listed under the Natural Environment and Rural Communities Act (2006), BoCC Red = Birds of conservation concern Red List, BoCC Amber = Birds of conservation concern Amber List LBAP = Scarborough Biodiversity Action Plan, INNS = Invasive Non-Native Species.

Habitats

- 3.7 The habitats described below correspond to those mapped on Figure 2 Phase 1 Plan. Botanical species lists for the habitats are provided in Appendix A.

Poor Semi-improved Grassland

- 3.8 The Site comprised a section of a larger poor semi-improved grassland with characteristics of a MG6 grassland. The area was dominated by grasses and rushes which included frequent to abundant Yorkshire fog *Holcus lanatus*, occasional perennial ryegrass *Lolium perenne* and cocks' foot *Dactylis glomerata*. Soft rush *Juncus effusus* and creeping bent *Agrostis stolonifera* were both locally frequent. Herbaceous species were rarer but pignut *Conopodium majus* was locally frequent in the northwest of the site where it was drier. The field margin associated with H1 was ecologically more interesting with an increase in the herbaceous species present.
- 3.9 Poor semi-improved grassland of limited diversity and comprising common and widespread species, such as the grassland within the site, is a common and ubiquitous habitat both nationally and locally accordingly and is therefore considered to be of negligible nature conservation value and has not considered to be important within the context of this assessment.

Hedgerows

- 3.10 A single hedgerow was present onsite, and a second offsite hedgerow formed the eastern boundary (Refer to Table 2 Hedgerow Survey Summary & Photos 1 and 2 below).

Table 2: Hedgerow Survey Summary

Ref		Canopy Sp. (from most abundant to least abundant)	Height / Width (m)	Length (m)	Sp. per Av. 30m	Notes	Net Gain Assessment		Important Hedgerow
H1		Rf, Rc, Fe, Ap, Cm, Ia, Ps, Lp	1.5 / 1.7	56.6	5	No gaps, Wall, > 3 woodland species	<p>Gap at hedge base <0.5m</p> <p>>1m of undisturbed perennial vegetation None</p> <p><20% undesirable perennial vegetation Yes</p> <p>≥10% invasive/neophyte species Yes</p> <p>≥10% Damaged by humans No</p>	Yes	
H2		Cm, Salsp, Ac, Ca, Rc, Ia, Cs	0.8	40	5	No gaps	<p>Gap at hedge base >0.5m</p> <p>>1m of undisturbed perennial vegetation None</p> <p><20% undesirable perennial vegetation Yes</p> <p>≥10% invasive/neophyte species No</p> <p>≥10% Damaged by humans Yes</p>	No	

Species Key: Ac *Acer campestre* – field maple, Ap *Acer pseudoplatanus* – sycamore, Cm *Crataegus monogyna* – hawthorn, Rc *Rosa canina* – dogrose, Rf *Rubus fruticosus* agg. – bramble, Salsp *Salix spp*– A willow, Ia *Ilex aquifolium* - holly, Ps *Prunus spinosa* – blackthorn, Ln *Lonicera sp* – A honeysuckle, Ca *Corylus avellana* – hazel



Photo 1: Showing Hedgerow 1 in the background with poor SI grassland, taken from the southeast



Photo 2: Showing offsite hedgerow 2 taken from northeast corner of site

Fauna

Bats

- 3.11 There were no trees or structures on site which would provide potential roosting features. No records of roosting bats were returned from the local bat group.
- 3.12 The Hedgerows provide some suitable foraging and commuting habitat.

Birds

- 3.13 Hedgerows on site provide suitable nesting habitats for some bird species.
- 3.14 Given the size of the site it is considered unlikely that the site will be of significant value to over-wintering birds.

Great Crested Newts

- 3.16 Three ponds were noted within 500m of the Site boundary, the closest pond was located approximately 100m northeast of the Site boundary. From aerial photo this appears to be a man-

made pond which is surrounded by hard standing on three sides. The second pond is located over 300m north and the is located over 400m southwest of the site.

Reptiles

- 3.17 The habitat on site lacked a variation in structure which is required by reptile species to provide both shelter and basking opportunities.

Additional Protected / Notable Species

- 3.18 No evidence of, or potential for other protected species was observed on site at the time of surveying.

4.0 DISCUSSION

Statutory Sites

- 4.1 The degree to which designated sites receive consideration under the planning system and legislative protection depends on the designation itself and its level of importance and value. This ranges from sites of international importance protected by UK legislation that transposes European directives, to protection under UK legislation or national and local planning policy.
- 4.2 Beast Cliff-Whitby (Robin Hood's Bay) SAC located 1.2km southeast of the site, this is designated for its vegetated sea cliffs. Given the reason for designation and the distance from the site it is considered unlikely that the development would directly impact it.
- 4.3 The North York Moors National Park, which is also designated as an SPA, SAC and SSSI is located 770 m west of the survey area. Species listed as reasons for the SPA designation comprised of merlin and golden plover, both of which are for breeding only. As breeding habitat for these species are not present on site it is considered unlikely that the development would impact these species.
- 4.4 It is estimated that around 8 million people visit the North York Moors every year⁴. Given the low numbers of properties proposed for the site and the high visitor numbers in the area, the increase from human activity will not be significant.

Non-Statutory Designated Sites

- 4.5 There were no non-statutory sites within 2km search area.

Habitats

- 4.6 The degree to which habitats receive consideration within the planning system relies on a number of mechanisms, including:
- Inclusion within specific policy (e.g. veteran & ancient trees and ancient woodland in NPPF, or non-statutory site designation),
 - Identification as a habitat of principal importance for biodiversity under Natural Environment and Rural Communities Act (NERC) 2006 and consequently identification as a Priority Habitat within

⁴[https://www.northyorkmoors.org.uk/about-us/press-office/facts-and-figures#:~:text=Around%208.03%20million%20people%20visit,year%20\(2018%20STEAM%20Report\).](https://www.northyorkmoors.org.uk/about-us/press-office/facts-and-figures#:~:text=Around%208.03%20million%20people%20visit,year%20(2018%20STEAM%20Report).)

the local Biodiversity Action Plan (LBAP) and a Priority Habitat for England under Biodiversity 2020.

- 4.7 The poor semi-improved grassland was considered to be of low nature conservation value and no rare or notable plant species were confirmed in these habitat types. Consequently, the loss of these habitats is not considered significant and, as such, they are not considered further within this assessment.

Hedgerows

- 4.8 Hedgerow 2 was located off site; due to a lack of associated features it does not meet the criteria as important under the Hedgerow Regulations 1997 (See also Appendix B Hedgerow Evaluation Results). However due to the high proportion of native species it is a habitat of principle importance. The hedgerow should be protected through the inclusion of barrier fencing throughout the development.
- 4.9 From this independent survey, we are able to confirm that Hedgerow 1 is meets the criteria as important under schedule 1 part II of The Hedgerow Regulations 1997 (Refer also to Appendix B Hedgerow Evaluation Results). Its protection comes from paragraph 7 (b) at least 6 woody species and at least 3 of the features specified in sub-paragraph (4). Due to the location of the hedgerow within North Yorkshire the number of species needed to meet this criterion is reduced by 1. Five species on the woody species list were recorded within a 30m section. The associated features included the presence of a wall along the hedgerow, no gaps, and the presence of greater than 3 woodland species on schedule 2 of the Act. Those present during the survey comprised barren strawberry *Potentilla sterilis*, hart's-tongue *Asplenium scolopendrium* herb Robert *Geranium robertianum*, lords-and-ladies *Arum maculatum*, male-fern *Dryopteris filix-mas*, pignut *Conopodium majus*, primrose *Primula vulgaris*, soft shield-fern *Polystichum setiferum*, and wood avens *Geum urbanum*.
- 4.10 In addition, under the habitat descriptions for Hedgerow Habitat of Principal Importance as listed within Section 41 of the NERC Act, the hedges H1 & H2 consist of 80% or more native species and therefore qualify as HPI.

Fauna

Bats

- 4.11 All species of bats and their roosts are listed on the Conservation of Habitats and Species Regulations 2017 (as amended) making it illegal to deliberately disturb any such animal or damage / destroy a breeding site or roosting place of any such animal. Bats are also afforded full legal protection under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Under this legislation it is illegal to recklessly or intentionally kill, injure or take a species of bat or recklessly or intentionally damage or obstruct access to or destroy any place of shelter or protection or disturb any animal whilst they are occupying such a place of shelter or protection. Some bat species, including soprano pipistrelle, are species of principal importance under the NERC Act.
- 4.12 No records of bats were returned from NEYEDC for within the site. There were no trees or structures which provide potential roosting opportunities for bats. The hedgerows on and adjacent to the site are likely to provide some foraging and commuting habitat for any species present in the local area.

- 4.13 Under the current proposals the onsite hedgerow will be translocated reinforced by new planting in the form of standard trees and reconnected to the local hedgerow network. Along with an additional new hedge line (to be planted in the south of the site) this will provide significantly more foraging and commuting habitat. A section of approximately 8m of the hedgerow will be lost for the access road/service path however this could be translocated to the newly created native hedgerow along the southeastern site boundary.
- 4.14 Overall, there will be an increase of c. 25m of hedgerow after the development. This will provide an increase in foraging and commuting habitats for bats in the local and immediate area.

Birds

- 4.15 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Several species of wild birds are also listed on Schedule 1 of the Act which provides protection for the species at all times. Single record for black redstart a schedule 1 species was returned from 970m east of the site in 2013. Swifts are frequently recorded in the area. Habitats on site are not suitable nesting habitats for either species.
- 4.16 The removal of any vegetation suitable to support nesting birds including hedges & trees should be undertaken outside of the main bird breeding season (March to September inclusive) (unless prepared prior to this period by management in the case of hedges) to minimise the risk of disturbance to breeding birds. If this is not possible, vegetation to be removed should be checked prior to its removal by a suitably experienced ecologist. If active nests are found, vegetation should be left untouched and suitably buffered from works until all birds have fledged. Specific advice would need to be sought prior to undertaking any vegetation clearance on site within the bird nesting season.

Great Crested Newt

- 4.20 Great crested newts are afforded legal protection by Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and under the Conservation of Habitats and Species Regulations 2017 (as amended). Great crested newts are also listed as a species of principal importance under the NERC Act.

- 4.21 Consultation with the local records centre returned no records of GCN from within the 1km search area.
- 4.22 The poor semi-improved grassland provides sub-optimal terrestrial habitat for great crested newts in their terrestrial phase. Hibernation potential is present in the base of the hedgerow and wall, however, there is no breeding habitat present on site.
- 4.23 The pond closest to the site and the pond 300m north were both surveyed as part of the Natural England eDNA survey undertaken for district licensing in 2019. Both ponds were negative for GCN eDNA.
- 4.24 As such it is considered that GCN do not pose a statutory constraints to the development of the Site.

Reptiles

- 4.25 All British reptiles are protected from killing and injury under the Wildlife and Countryside Act 1981 (as amended) and are listed as species of principal importance for the conservation of biodiversity under the NERC Act, indicating that public bodies, such as the Local Planning Authority, have a duty to have regard to the conservation of these species.
- 4.26 Habitats on site were considered sub-optimal due to their homogenous nature and lack of suitable structure. No records were returned for within 1 km of the site therefore it is considered that reptile species do not pose a statutory constraint to development.

5.0 APPENDIX A: SPECIES LISTS

Poor semi-improved grassland

Common Name	Latin Name	DAFOR
Common Bent	<i>Agrostis capillaris</i>	O
Creeping Bent	<i>Agrostis stolonifera</i>	LF
Meadow Foxtail	<i>Alopecurus pratensis</i>	R
Pignut	<i>Conopodium majus</i>	LF
Cock's-foot	<i>Dactylis glomerata</i>	O
Red Fescue	<i>Festuca rubra</i>	R
Yorkshire-fog	<i>Holcus lanatus</i>	F/A
Creeping Buttercup	<i>Ranunculus repens</i>	F
Broad-leaved Dock	<i>Rumex obtusifolius</i>	R
Soft-rush	<i>Juncus effusus</i>	LF
Perennial Rye-grass	<i>Lolium perenne</i>	O
Ribwort Plantain	<i>Plantago lanceolata</i>	R
Meadow Buttercup	<i>Ranunculus acris</i>	O
Common Sorrel	<i>Rumex acetosa</i>	R
Dandelion	<i>Taraxacum officinale agg.</i>	R
Bush Vetch	<i>Vicia sepium</i>	R

Hedgerows

Hedgerow 1

Woody Species

Common Name	Latin Name
Ash	Fraxinus excelsior
Bramble	Rubus fruticosus
Dog Rose	Rosa canina
Sycamore	Acer pseudoplatanus
Hawthorn	Crataegus monogyna
Honeysuckle	Lonicera sp.
Holly	Ilex aquifolium
Blackthorn	Prunus spinosa

Ground cover

Common Bent	<i>Agrostis capillaris</i>
Meadow Foxtail	<i>Alopecurus pratensis</i>
Lords-and-Ladies	<i>Arum maculatum</i>
False Brome	<i>Brachypodium sylvaticum</i>
Red Valerian	<i>Centranthus ruber</i>
Creeping Thistle	<i>Cirsium arvense</i>
Pignut	<i>Conopodium majus</i>

Cock's-foot	<i>Dactylis glomerata</i>
Male-fern	<i>Dryopteris filix-mas</i>
Red Fescue	<i>Festuca rubra</i>
Snowdrop	<i>Galanthus nivalis</i>
Cleavers	<i>Galium aparine</i>
Herb-Robert	<i>Geranium robertianum</i>
Wood Avens	<i>Geum urbanum</i>
Common Ivy	<i>Hedera helix</i>
Yorkshire-fog	<i>Holcus lanatus</i>
Nipplewort	<i>Lapsana communis</i>
Spear Thistle	<i>Cirsium vulgare</i>
Cow Parsley	<i>Anthriscus sylvestris</i>
Meadow Vetchling	<i>Lathyrus pratensis</i>
Perennial Rye-grass	<i>Lolium perenne</i>
Hart's-tongue	<i>Asplenium scolopendrium</i>
Smooth Meadow-grass	<i>Poa pratensis</i>
Soft Shield-fern	<i>Polystichum setiferum</i>
Barren Strawberry	<i>Potentilla sterilis</i>
Primrose	<i>Primula vulgaris</i>
Lesser Celandine	<i>Ranunculus ficaria</i>
Common Sorrel	<i>Rumex acetosa</i>
Smooth Sow-thistle	<i>Sonchus oleraceus</i>
Greater Stitchwort	<i>Stellaria holostea</i>
Dandelion	<i>Taraxacum officinale agg.</i>
Common Nettle	<i>Urtica dioica</i>
Bush Vetch	<i>Vicia sepium</i>
Rough-stalked Feather-moss	<i>Brachythecium rutabulum</i>
Common Hogweed	<i>Heracleum sphondylium</i>
Common Ivy	<i>Hedera helix</i>

Hedgerow 2

Woody Species

Common Name	Latin Name
Willow	Salix sp.
Bramble	Rubus fruticosus
Dog Rose	Rosa canina
Dogwood	Cornus sanguinea
Hawthorn	Crataegus monogyna
Field maple	Acer campestre
Holly	Ilex aquifolium
Hazel	Corylus avellana

Ground cover

Cock's-foot	<i>Dactylis glomerata</i>
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ASSOCIATED FEATURES column i if adjacent to a PROW	Use	i	ii
	One or more standards per 50m		
Less than 10% gaps			/
Ditch for over 50% of hedge			
Bank or wall for over 50% of hedge			
Connections scoring 4 points or more			
A parallel hedge within 15m			
Three or more woodland species			
TOTAL			1

ASSESSMENT CRITERIA	
Within Hull, Cumbria, Darlington, Durham, East Riding of Yorks, Hartlepool, Lancs, Middlesbrough, NE Lincs, N Lincs, Northumberland, N Yorks, Redcar & Cleveland, Stockton-on-Tees, Tyne and Wear, W Yorks or York, the number of woody species in the assessment criteria is to be reduced by one for a), b), c) & d)	
a) Rare or protected species present	
b) 7 or more woody species	
c) 6 woody species and at least 3 associated features	
d) 6 woody species and at least one of 4 listed species	
e) 5 woody species and at least 4 associated features	
f) Adjacent to PRoW & includes ≥ 4 woody species and at least 2 associated features	

Net Gain condition assessment – Supplementary info.					
Gap at hedge base	>0.5m	/	<0.5m		
>1m of undisturbed perennial vegetation	None	/	1 side		2 sides
<20% undesirable perennial vegetation	No		Yes	/	
≥10% invasive/neophyte species	Yes		No	/	
≥10% Damaged by humans	Yes	/	No		

Planning Ref: NYM/2021/0351/OU
Appeal Reference



SIW Properties

Lands West of Highfields, Sled Gates, Fylingthorpe

ECOLOGY & NATURE CONSERVATION APPEAL STATEMENT

by Dr Suzanne Mansfield BSc Hons, Ph.D., MCIEEM, CMLI

17 June 2022

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH
Company No. 07128076. [

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APPENDIX 1: ECOLOGICAL APPRAISAL MARCH 2022

1.0 INTRODUCTION

Qualifications

- 1.1 My name is Dr Suzanne Mary Mansfield. I hold a Bachelor of Science with Honours Degree in Botany (specialising in Ecology and Ecophysiology) and a Ph.D. in Ecology & Toxicology. I am a Full Member of the Chartered Institute of Ecologists and Environmental Managers and a Chartered Member of the Landscape Institute (Landscape Science Division).
- 1.2 I am the Senior Ecology Director of FPCR Environment & Design Ltd and have over 30 years' experience as a professional ecologist, the majority of which has been spent in consultancy dealing with all aspects of ecology and nature conservation in support of planning applications for a wide range of projects including residential development. I have been involved in all aspects of project management from surveys, site selection, constraints analysis, mitigation to minimise environmental impacts, detailed design, and monitoring. I am responsible for a team of 89 ecologists and 9 Arboriculturalists over 4 offices with a diverse skills base covering all aspects of ecology and arboriculture.
- 1.3 We have acted as a consultant to government bodies such as Natural England, DEFRA, English Heritage, and the Environment Agency. FPCR also acts as consultant to many local authorities across the United Kingdom.
- 1.4 We were initially appointed on 29th November 2021 to review matters in relation to the proposed mitigation requirements for the planned removal of a hedge in connection with the application. We have subsequently reviewed matters raised in relation to ecology and nature conservation for the purposes of this Appeal.
- 1.5 The Statement which I have prepared and provide for this appeal is true and has been prepared and given in accordance with guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

Scope of Statement and Structure

- 1.6 This Statement has been prepared for SIW Properties, the appellant, I have considered the reasons for refusal as these relate to ecology and nature conservation matters and the Delegated Decision Report including the Officers comments and conclusions (Delegated Decision Report dated 12.01.22. Page 11 & 12 Material Considerations). I have reviewed the submitted application documents including material prepared by other ecologists appointed by the Appellant to review the hedge previously, correspondence by Elspeth Ingleby Ecologist North York Moors National Park Authority, and information provided by 3rd parties objecting to the scheme, including but not limited to those submitted by Dr T Reed C/O The Pond House, Sledgates, where these related to the site's hedges.
- 1.7 I have drawn on the submitted ecological supporting information in producing my statement and subsequent to the decision by the LPA to refuse the Application, a separate whole site review conducted by FPCR Environment & Design (FPCR).
- 1.8 I will also consider the likely extent of any harm and the ecological benefits associated with the proposals.

The Appeal Proposal & Grounds for Refusal

- 1.9 The application was validated 04 May 2021 by the North York Moors National Park Authority, in respect of an outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale) at Land west of Highfield, Sled Gates, Fylingthorpe. The application was refused permission (Decision No. NYM/2021/0351/OU) with two stated reasons for refusal, the second of which is concerned principally with the retention and enhancement of a roadside hedge.

RfR2 "The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments"

- 1.10 This Statement accompanies the main Appeal Statement (Alistair Flatman Planning) and should be read in conjunction with this and provides a detailed and evidence-based analysis with respect to matters relating to hedge loss as raised by RfR2 in the Decision Notice for refusal of the Application.

Site and Area Description

- 1.11 The Appeal site extends to 0.2 hectares of sheep grazed pasture to the south of Sled Gates and west of the residential area of Fylingthorpe, (an indicative site layout is shown in the Planning and Highways Statement Figure 1). The front of the site is bordered by a low stonewall which is topped by a hedgerow (H1 Figure 1 Habitat Plan). There are two further hedgerows lying on site boundaries to the east and west (H2 & H3). The site currently is part of an agricultural field compartment managed as grazed pasture.

Planning Background

- 1.12 There have been previous applications for 2-6 dwellings which have been refused on matters principally concerned with loss of character and appearance, highways, and local plan policy changes unrelated to ecology.
- 1.13 This application is in outline form and seeks permission for construction of up to 5 no. principal residence dwellings with associated access via a proposed new T Junction off Sled Gates to the north (matters reserved: appearance, landscaping, layout, and scale (planning reference NYM/2021/0351/OU).

LPA Response

- 1.14 The Delegated Decision Report prepared by North Yorkshire Moors Park Authority noted that the proposed visibility splays as drawn would affect a Victorian era hedge line. It was stated that the hedge should be protected and subject to a final botanical survey, may well come under the 1997 Hedgerow Regulations for protection as well. The LPA also stated that it was not one fence line that was affected as the sight lines rely on neighbours being willing or to cut their fences down and might be breaking the law as these are agricultural hedges. The response by Ged Lyth of North York County Council Highways Department Note to Planning Officer of 13 December 2021

constituting the substance of the Highways reason for refusal, refers to hedges rather than fences. However, the Planning Officer and author of the Decision Notice refers to fences but is likely also to be referring to hedges. The concern expressed is not only with regards to loss of sections of the frontage hedge but also the highways proposals being reliant in part on maintenance of existing hedges.

- 1.15 The LPA also indicates in its Decision Notice that the application ignores biodiversity interests or possible net gains (required by the NYMNP Local Plan 2020 and the 2019 NPPF) as there are no desk or field surveys. It ignores the relevant sections of the 2020 NYMNP Local Plan and the Supplementary Planning Document 3. It was also indicated that the Parish Council objection to the application was based on all the above issues.

Parish Council

- 1.16 The Parish Council assert there is no basis for unquantified claims of net gain on hedge removal and shrub planting nor in its opinion can replacement shrub planting adequately replace existing hedge flora. The Parish Council maintain that the application is not supported by any ecological (biodiversity) information that NYMNP can evaluate the effects of development.
- 1.17 The Parish Council also believe that as the survey of the hedge did not include survey of earlier or later emerging plant species it could have underrepresented the evaluation of the hedges value.

Third Party Comments in Relation to Appeal Scheme

- 1.18 I have reviewed all the third-party comments and objections in so far as they are relevant to ecology and summarise them briefly below. Comments are listed in the Delegated Decision and primarily concerned with:
- The loss of a hedge of 1997 Hedgerow Regulations standard hedge and field biodiversity. Hedge meets criteria as important as it has a bank or wall supporting it, less than 10% gaps and more than 3 woodland species
 - Scant regard to the protection and enhancement of biodiversity features, with loss of 90m of ancient hedge and associated stone wall
 - Presumption in the National Park for retention of ancient hedges and pathways
 - Loss of wildlife present in the field. Bats that roost there fly over the field and barn owls have been seen hunting. Many species of bird use the hedge and bullfinch (a declining species) observed also using boundary hedges, and badgers observed crossing road from field and deer also observed in field. Field itself is of high ecological value, and the land low intensity agricultural land grazed by sheep and as such host a diverse range of species that include the ones listed above but also foxes, and birds of prey including buzzards and multiple species of owl regularly seen hunting the area.
 - The site and land adjacent are quite marshy and as such is home to frogs, toads, newts etc. The site is almost certainly home to protected and priority species and likewise are extremely important habitats and it is imperative that full surveys are carried out.
- 1.19 In addition to the above more general concerns more detailed representations have been made regarding the ecological value of the hedge line fronting the Appeal site. These are summarised below:

Mr Bob McGovern (30.12.21), Mr John Collinson (02.12.21) & Dr Tim Reed 08.12.21) with comments of a similar nature

- 1.20 For clarity the concerns expressed by Mr McGovern & Mr Collinson in relation to visibility splays are dealt with by the Appellants Highways Witness Mr Andy Moseley of AMAPT. I (and my team at FPCR) consider issues in relation to ecology and biodiversity only. Comments in relation to highways have also been dealt with by the Appellants Highway Witness). With regard to direct impacts on the hedge, Mr McGovern expressed concerns about any break in the continuity of the hedge and wall, and in the likely survival rate of species and that a line of planted shrubs is not in any way, equivalent to the loss of a high value hedge meeting 1997 Regulations.
- 1.21 Mr McGovern maintained the appellant has not identified the true impact on the hedge and its diverse ground flora. Nor has the applicant ever supplied biodiversity data for NYMNP evaluation, and NYMNP did not meet its own Planning Advice Note 2, having made its decisions without this information, and should have considered a proper biodiversity baseline in line form of a 2022 survey consistent with its own Advisory notes.
- 1.22 Dr Tim Reed C/O The Pond House Sledgates in his email of 08 December 2021 10:13 to Hilary Saunders Planning Officer on the additional material provided by the applicant reiterated his earlier objections on biodiversity grounds (made in July 2021). His objection are similar in nature to Mr McGovern's (outlined above), that unverifiable claims were made regarding impacts to the front hedge; a hedge that exceeded 1997 Hedgerow Regulations criteria, and for which he had personally collected plant species data on 3 occasions across a summer, that a single data sample in his opinion would be inappropriate for validation of 1997 status; that the NYMNP needed to instead use a full list of both shrubs and ground flora available. It will also require clearance of a lightly grazed damp agricultural field that may well have botanical interest: thus, in his opinion use of the precautionary principle would have been appropriate here, and for NYMNPA to request the ecological survey (referring to NYMNPA Planning Advice Note 2).

2.0 ECOLOGICAL EVALUATION

Previous site evaluation

- 2.1 Previous site evaluation had focussed on the site hedgerows which have included separate assessments by the Appellants ecologists Middleton Bell Ecology, surveys provided by the NYMNP and third parties conducting their own surveys. This led to a lack of consensus over whether the hedges met criteria for Important hedges under the Regulations 1997.
- 2.2 In addition, comments have been made concerning an apparent lack of general ecological information backed up by site surveys. Third party objectors have provided anecdotal information over the use of the site by faunal species some of which are protected.

Middleton Bell Hedge Survey 21st June 2021 and assessment conducted by Dr Tim Reed C/O The Pond House

- 2.3 The hedgerow (H1) is described and defined in the Hedgerow Assessment Letter Report produced by Middleton Bell Ecology (MBE) on the 22nd June 2021, as being a native species rich hedgerow, with no gaps present atop a small hedge bank and wall. Former laying/coppicing was evident, and the hedgerow had a good structure with no/little vertical gaps from the base. The hedge appeared to have been recently managed.

- 2.4 The hedge was also surveyed on two occasions in 2003 and on one occasion c.2005 with survey data supplied by Elsbeth Ingleby, an ecologist with the NYMNP. This information was also included in the assessment completed by MBE. MBE concluded that the hedge did not meet criteria as an important hedge as insufficient species were found during survey.
- 2.5 The extended hedge survey completed by Dr Tim Reed (para 1.22 of this statement) submitted as part of his objection found more woody species following several visits that he made in 2021. Dr Reed concluded that the hedgerow qualified as Important under the Hedgerow Regulations 1997 on the basis of 5 (6 species minus 1 for hedges in N Yorkshire) confirmed woody species and 3 associated qualifying features.

Ecological Surveys conducted by FPCR in 2022 to inform the Appeal

- 2.6 A baseline survey was not originally conducted, and it appeared the LPA had been content that with the scale of the development located in part of a grazed pasture there were insufficient features present to trigger the need for a full ecological survey and none appeared to have been requested.
- 2.7 Nevertheless, an Extended Phase 1 Habitat survey including a Preliminary Protected Species survey was completed by FPCR in March 2022 to provide more up-to date information over the ecological value of the Appeal site and in response to 3rd party comments regarding an absence of baseline information (refer Appendix 1: Ecological Appraisal Report, FPCR, March 2022).
- 2.8 In addition to the above survey the hedge line H1 (site frontage) was also the subject of a further assessment under the Hedgerow Regulations 1997.
- 2.9 There are no statutory sites affected by the development of the Appeal site. Beast Cliff-Whitby (Robin Hood's Bay) SAC located 1.2km southeast of the site, this is designated for its vegetated sea cliffs. Given the reason for designation and the distance from the site it is considered unlikely that the development would directly impact it.
- 2.10 The North York Moors National Park, designated as an SPA, SAC and SSSI is located 770 m west of the survey area. Species listed as reasons for the SPA designation comprised of merlin and golden plover, both of which are for breeding only. As breeding habitat for these species are not present on site it is considered unlikely that the development would impact these species. It is estimated that around 8 million people visit the North York Moors every year. Given the low numbers of properties proposed for the site and the high visitor numbers in the area, the increase from human activity will not be significant.
- 2.11 There were no non-statutory sites within 2km search area.
- 2.12 The field which comprised the site consisted of poor semi-improved grassland was of low nature conservation value (due to limited species diversity) with no rare or notable plant species identified.

Hedgerow Regulations 1997

- 2.13 Given the variation in earlier conclusions over the quality of H1 the hedge was subject to a further independent review (by FPCR) under the Hedgerow Regulations 1997. For further information relating to the planning and legislative context of the Regulations refer to Section 4.0 of this statement, matters relevant to ecological survey and assessment are considered below. This mechanism offers some protection for hedgerows of more than 20 metres in length or which join other hedgerows provided they adjoin agricultural land, forestry, paddocks, common land, village

greens, a site of special scientific interest or a local nature reserve. In order to remove such a hedgerow an owner must serve notice on the local planning authority who then decides if it is 'important' and if so, it is whether it should be retained. A hedgerow is 'important' if it has existed for 30 years or more and it meets any one of the criteria set out in Part II of Schedule 1 the Regulations. Evaluation consists of both an onsite survey largely to establish the landscape and ecological and reference to appropriate documentation largely to establish historical value.

- 2.14 Sections 6.10-6.15 of the DEFRA 1997 The Hedgerow Regulations 1997: A Guide to the Law and Good Practice provides further details on survey requirements with a requirement that surveys are completed by suitable qualified individuals with botanical expertise. This guide does not include guidance on survey timings nor frequency, decisions in that respect are left to experienced surveyors.

FPCR Hedge Survey & review

- 2.15 This survey of the sites hedges was completed in March 2022 by suitable experienced ecologists in order to be able to observe and record earlier spring flowering plants. Our subsequent survey confirmed that Hedgerow 1 does meet the minimum criteria as important under Schedule 1 part II of The Hedgerow Regulations 1997. Its protection comes from paragraph 7 (b) at least 6 woody species and at least 3 of the features specified in sub-paragraph (4). Due to the location of the hedgerow within North Yorkshire the number of species needed to meet this criterion is reduced by 1 (therefore 5 woody species are required for hedges in N. Yorkshire). We recorded five species on the woody species list recorded within a 30m section. The associated features included the presence of a wall along the hedgerow, no gaps, and the presence of greater than 3 woodland species on schedule 2 of the Act. Those present during the survey comprised barren strawberry *Potentilla sterilis*, hart's-tongue *Asplenium scolopendrium* herb Robert *Geranium robertianum*, lords-and-ladies *Arum maculatum*, male-fern *Dryopteris filix-mas*, pignut *Conopodium majus*, primrose *Primula vulgaris*, soft shield-fern *Polystichum setiferum*, and wood avens *Geum urbanum*.
- 2.16 The hedge is not ancient but appears to be Victorian. The LPA (Officers Delegated Report) has suggested that the boundary has been in existence prior to 1845 though it is unclear whether there was a hedge or a fence. The matter of age was considered by the LPA ecologist noted that "as any qualifying features for the archaeological, historical or landscape criteria must relate to records predating 1997, these cannot have changed since the hedgerow was previously assessed by colleagues for a previous application on the site. There was not found to be the features necessary to meet the criteria under these values and I will therefore not go into these further here". The value of the hedge as far as the 1997 Regulations is concerned, reflects its qualifying features under ecological criteria.
- 2.17 Hedgerow 2 was located off site; due to a lack of associated features it does not meet the criteria as it was not considered important under the Hedgerow Regulations 1997. However due to the high proportion of native species it is a habitat of principal importance. The hedgerow would require protection through the inclusion of barrier fencing during construction and included sympathetically into site design.
- 2.18 Hedge 3 is a domestic boundary hedge (belonging to the adjacent property of Fylingdales) comprising mostly of garden privet with some beech separated from the site by a chain link fence, as such not the subject of further assessment.

- 2.19 In addition, under the habitat descriptions for Hedgerow Habitat of Principal Importance as listed within Section 41 of the NERC Act, the hedges H1 & H2 consist of 80% or more native species and therefore qualifies as HPI.

Bats

- 2.20 No records of bats were returned from NEYEDC for within the site. There were no trees or structures which provide potential roosting opportunities for bats. The hedgerows on and adjacent to the site are likely to provide some foraging and commuting habitat for any species present in the local area.

Birds

- 2.21 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Several species of wild birds are also listed on Schedule 1 of the Act which provides protection for the species at all times. A single record for black redstart a schedule 1 species was returned from 970m east of the site in 2013. Swifts are frequently recorded in the area. Habitats on site are not suitable nesting habitats for either species. Additional bird species have been listed by 3rd parties, including bullfinch and barn owl seen in the former case using the onsite hedges and in the latter case hunting locally across fields.
- 2.22 Bullfinch (UK Conservation status Amber Protected in the UK under the Wildlife and Countryside Act, 1981. Priority Species under the UK Post-2010 Biodiversity Framework) occur in woodland, but can also be found in hedgerows, scrubby areas and parks and gardens provided there are trees to feed on and dense vegetation to nest in. Given the sites location adjacent to open farmland and nearby woodland (associated with Thorpe Beck in the north) these are considered likely to be using the wider area that includes the site and hedges for foraging (nesting habitat is considered more limited given the extent of management and presence of alternative better-quality habitats nearby). Presence of bullfinch in the wider area with anecdotal sightings on site does not therefore infer greater value and given hedges are part of habitat mitigation proposals would be a matter of addressing conservation needs at this point with proposals readily able to accommodate this species.
- 2.23 Barn owls (UK Conservation Status Green. Protected in the UK under the W&CA 1981 under Schedule 1)) are widespread across the UK and prefer open countryside and farmland. Sightings are consistent with birds utilising open farmland to the south of the site. The site itself supporting closer grazed pasture grassland with a lack of suitable cover will limit the potential for small mammals in particular rodents such as voles & shrews on which the species relies. Better quality feeding habitat is present locally.

Great crested newts

- 2.25 Consultation with the local records centre returned no records of GCN from within the 1km search area.
- 2.26 The poor semi-improved grassland provides sub-optimal terrestrial habitat for great crested newts in their terrestrial phase. Hibernation potential is present in the base of the hedgerow and wall, however, there is no breeding habitat present on site.
- 2.27 The pond closest to the site and the pond 300m north were both surveyed as part of the Natural England eDNA survey undertaken for district licensing in 2019. Both ponds were negative for GCN eDNA.
- 2.28 As such it is considered that GCN do not pose a statutory constraint to the development of the Site.
- 2.29 Habitats on site were considered sub-optimal due to their homogenous nature and lack of suitable structure. No records were returned for within 1 km of the site therefore it is considered that reptile species do not pose a statutory constraint to development.

Overall Conclusions Site Ecological Value

- 2.30 The assessment confirmed the site to have limited overall nature conservation value with no protected or priority faunal species wholly reliant on the site.
- 2.31 The sites hedges have greater value, H1 is important under the Hedgerow Regulation 1997, and along with H2 are hedgerow Habitats of Principal Importance under Section 41 of the NERC Act.

3.0 EFFECTS OF APPEAL PROPOSALS

- 3.1 No statutory or non-statutory site would be affected by proposals. Given the low numbers of properties proposed for the site and the high visitor numbers in the North York Moors National Park (SAC, SPA, SSSI) area, the increase from human activity is not considered to be significant.
- 3.2 Representations were also made by 3rd party objectors with regard to the lack of ecological supporting information, reliance on out-of-date survey information, and the validity of surveys provided in support of the application. Botanical and preliminary protected species surveys completed in March 2022 have confirmed that the site overall has limited nature conservation value with no protected or priority faunal species present that was wholly reliant on the site.
- 3.3 Poor semi-improved pasture representing low value grassland habitat will be lost.
- 3.4 H2 will be retained. H1 will also be retained but will need to be translocated further into the site for highways reasons, to improve site access for housing, the need for which is outlined in the Planning Statement (refer also to mitigation proposals and also Section 4 of this Statement which considers the planning and legislative context of proposals to translocate H1).

Mitigation

- 3.5 The assessment confirmed the site to have limited overall nature conservation value with no protected or priority faunal species wholly reliant on the site. General measures to enhance wildlife habitats as part of development proposals would be sufficient to address impacts.
- 3.6 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Site clearance works would need to be completed prior to or after March-August inclusive or a pre commencement check carried out by a suitable experienced ecologist.
- 3.7 Whilst the effects of the Appeal proposals on habitats and local wildlife is limited overall the proposals have nevertheless included mitigation as follows:
- Native species to be included within the landscape planting proposals for the site along with additional habitat features including new hedge and tree planting.
 - To enhance roosting opportunities for bats within the site artificial bat bricks to be included within new properties on site (positioned > 4 m from ground level on the eastern, southern, or western gable walls of the dwellings away from artificial lighting).
 - Artificial lighting on the site in accordance with current Bat Conservation Trust guidance with no artificial lighting being directed onto areas of retained/existing connective habitat around the edges of the site to support a continuation of foraging and commuting by bats using the local area.
 - Provision for nesting birds (e.g., house sparrow, swift and house martin) would be included within the site; ideally as permanent features built into selected dwellings and or garages (Schwegler No. 17B) and house sparrow (Schwegler No. 1SP)).
- 3.8 All retained hedges will be managed with nature conservation in mind. The development proposals also include the planting of a new native species hedge to define the southern site boundary and to provide net gain (for considerations regarding the planning and legislative context for biodiversity net gain (BNG) refer to Section 4.0 of this Statement). Species should include if feasible those of local providence and be appropriate to the location (see Section 3.3 of Method statement for native tree and shrub species). Again, planting will include tree species such as oak and ash which will be allowed to develop into standards to create structure as well as increasing diversity.

Hedge translocation FPCR expertise and experience

- 3.9 As the hedge H1 cannot be retained in its current alignment it is proposed to translocate the entire affected length further into the site. A hedgerow translocation method statement has been prepared and submitted to support the application (Hedgerow Translocation Method Statement, FPCR, 2021. Copy submitted with Appeal papers). The document was prepared to assess the state of the hedge, the physical factors that might affect the feasibility of extracting the hedge from its current alignment, methods of translocation, the key elements that should be considered to ensure successful translocation and to demonstrate the expertise of FPCR to complete this work.
- 3.10 FPCR are a multi-disciplinary practice who offer a complete ecological service covering a range of disciplines, we have over 50 years of experience of providing ecological and arboricultural advice.

During this time, we have worked on many habitat translocations and large-scale habitat re-creation schemes. I have also been directly involved in a number of these. Habitat translocation has involved, wetland, grassland, individual trees, scrub, and hedges. We have also completed specialist translocations involving habitats on more complex sites such as those developed on pulverised fuel ash containing orchid assemblages.

- 3.11 Examples of work we have conducted or have been directly involved in where hedgerow translocation was required included numerous larger scale developments from minerals to infrastructure projects. Working alongside a specialist contractor we have successfully translocated hedgerows as part of the Northampton Gateway Rail Freight Interchange for Segro Ltd (A total of 2776m of conservation grade hedges were translocated. For further details refer to submitted Method Statement 2021). In February this year we successfully gained LPA approval for circa 400m of hedge meeting Regulations criteria at Merchant Field Cleckheaton for Harron Homes.
- 3.12 FPCR can therefore demonstrate expertise attained over many decades of being involved in habitat recreation and translocation work for many schemes.
- 3.13 The hedge is considered suitable for translocation, and it is considered that the hedge could be readily relocated further into the site to retain what is a valuable nature conservation resource. By relocating further into the site, the required visibility splays and access works can be completed without constraint and the hedge line can be reconnected not far from its original alignment, reinforced, and managed to enable it to continue to serve as a functional ecological unit.
- 3.14 The final location of the translocation will be along the frontage of the new development and very close to its original alignment. This minimises any issues in relation to extraction, effects of transportation, drying out and any potential damage. Once established the hedge line will look similar to the original. The hedge will be retained albeit aligned further into the development. Original connections will be preserved, and the hedge connected to a proposed new hedge in the southern site boundary.

4.0 PLANNING POLICY CONTEXT, PLANNING CONSIDERATIONS & REASON FOR REFUSAL ON ECOLOGICAL GROUNDS

- 4.1 Matters in relation to planning are dealt with in the Planning Statement of Mr Alistair Flatman. I review relevant policies and guidance in terms of a consideration of ecological matters.
- 4.2 References were made in the Committee Report under main issues to the local plan adopted July 2020. Strategic Policy A, and ENV1.
- 4.3 *Under Strategic Policy A - Achieving National Park Purposes and Sustainable Development Within the North York Moors National Park*, it is stated that a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes: 1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park.
- 4.4 *Under Policy ENV1 of the Local Plan Trees, Woodlands, Traditional Orchards, & Hedgerows* it is stated there will be a presumption in favour of the retention and enhancement of existing trees, woodlands, traditional orchards, and hedges of value on all developments. Where the wider sustainability benefits outweigh the loss development proposals will be expected to minimise harm

and provide a net biodiversity and amenity gain with appropriate replacement of trees or hedgerows.

- 4.5 The LPA have commented that the following matters of an ecological nature have been material considerations:
- 4.6 In previous applications evidence suggested that the hedge was in place prior to 1845 (albeit there were discrepancies as to whether there was a fence or hedge) the presence of this boundary prior to 1845 makes it historically significant. In view of this the LPA have concluded that it is not previously been considered desirable to lose this boundary. This appears to be at odds to the comments of the LPA's ecologist in her email of the 18th June 2021, which stated that previous surveys did not find criteria meeting archaeological, historical or landscape criteria (under the Hedgerow Regulations 1997).
- 4.7 The LPA's ecologist has stated that based on current information the hedge is considered to be worthy of retention under the Hedgerow Regulations. However, the ecologist also acknowledged that its removal could still also be authorised by an approved planning application as the legislation overrides the Regulations, but this should be considered in the planning balance. The ecologist also acknowledged that all hedgerows containing native woody species are considered priority habitats, but this did not give them firm legal protection, but it did mean that as a public body the LPA have a 'due regard' (under the NERC Act 2006) for their importance when undertaking its functions. If consented for removal it would mean that the mitigation and compensation requirements would be higher than for a non-priority habitat to ensure that overall biodiversity loss is not permitted.

REASON FOR REFUSAL

- 4.8 NYMNP have refused the outline for 5 dwellings. Reason for Refusal 2 stated that "*the existing roadside hedge classifies as being a habitat of importance (under the NERC Act) and therefore its removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in strategic Policy A and Policy ENV1 of the NYM Local Plan that state there is a presumption in favour of the retention and enhancement of existing hedgerow of value on all developments*"
- 4.9 The justification for RfR2 is based on the LPA's perception of the likelihood of habitat loss which it is stated would be contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan., These policies establish a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.
- 4.10 The proposals do not result in the loss or removal of any hedge (H2 retained and H1 translocated and realigned) and enhancements are proposed in the form of a new native species hedge with standard trees which will define the southern site boundary. All hedges within the site will be subject to management with biodiversity & nature conservation in mind. A net gain in hedgerow habitat is achieved.
- 4.11 The term remove is defined in Section 97 (8) of the 1997 Hedgerow Regulations as 'uproot or otherwise destroy' It includes acts of deliberate grubbing out and also acts that involve the destruction of the hedgerow. Consideration as to whether the proposed work or other activity would constitute removal will have to be judged according to the circumstances of each individual case. Exemptions include where development has been authorised by planning permission (or has deemed to have been granted). Provision is made in the regulations for hedgerow management

under 'For the proper management of a hedgerow'. Cutting back a hedgerow in a manner that does not result in its destruction is unlikely to constitute removal. Such works are recognised as being outside the scope of the Regulations and does not require LPA notification.

- 4.12 The proposals would require the repositioning of the hedge (H1) to accommodate sight lines. Again, this does not involve the removal of the hedge in the manner which would result in the hedge being lost as it does not involve the destruction of the hedge.
- 4.13 Regardless of where the hedgerow stands under the Regs 1997 (and the hedge only meets the minimum criteria (Section 2.15 of this statement) this is superseded by planning regulations (also made clear by the LPA ecologist in her email of the 22 December 2021 Elsbeth Ingleby to planning officer). It is clear that it is a habitat of importance under the NERC Act 2006, in line with the LPA's statutory purposes the LPA do not wish it to be lost or detrimentally affected by proposals. (Email Elsbeth Ingleby 22 December 2021 to Planning Officer). However, priority habitat has no firm legal protection as the LPA ecologist noted, rather as a public body the LPA have a 'due regard' under the NERC Act 2006. The LPA's ecologist has stated (see Officers Delegated Report) that if consented for removal it would mean that the mitigation and compensation requirements would be higher than for a non-priority habitat to ensure that overall biodiversity loss is not permitted. Comments made have all appeared to be in relation to ensuring no loss off biodiversity. The email of the 7th June 2021 paragraph 2 sets out what the ecologist expected by way of mitigation and compensation including reinstatement, location of new diverse hedgerow planting, timing of removal of existing hedge to avoid breeding birds, and reserve matters requirements for nest boxes.
- 4.14 The extent or level of mitigation/compensation that was expected by the LPA ecologist appears to also be clear in her email of the 18th June 2021 to the planning officer. The last paragraph of the same email suggests that the Ecologist considered that were the hedge to be lost and replaced then details of an appropriate planting mix would be required.
- 4.15 Measures that are proposed go further than replacement planting as advocated by the LPA's Ecologist. By translocating H1, its soils, seed bank, and component shrubs a short distance into the site would be saved. The technique used has been successfully applied by FPCR and its specialist contractors on conservation grade hedges for consented schemes nationally, it has been confirmed that the hedge is capable of being translocated and a method statement has been prepared and submitted to the LPA in support of the application. Post translocation the hedge would be managed, and additional native species will be planted. Existing linkages will be maintained and reinforced in the form of a new native species rich hedge in the south of the site. The pasture grassland on the site has been assessed by survey as of low value. A net gain in hedge habitat will be achieved.
- 4.16 A nest box & bat box scheme will provide additional benefits (and is a proposal that meets the requirement indicated by the LPA's ecologist in her Email 7th June 2021. Swift boxes to be included),

Overview of planning policy context and planning considerations

- 4.17 The proposals therefore accord with the relevant policies of the Local Plan.

5.0 SUMMARY & CONCLUSIONS

- 5.1 The Appeal site is supported by a baseline ecology survey which has identified that the land within the Appeal site is of low value, being largely comprised of low value pasture grassland.
- 5.2 The Appeal site land is not subject to any formal designation.
- 5.3 There are no protected species confirmed as being present and dependent on the site that would require specific measures in mitigation.
- 5.4 Requirements of local fauna, such as bats and birds can be dealt with through scheme design and precautionary best practice measures can be used to avoid any potential harm.
- 5.5 There would also be a landscape scheme secured and other standard measures included in the form of bird and bat boxes and a sensitive lighting scheme for foraging and commuting bats. Measures proposed can also be expected to achieve a betterment as a result of the provision of new nesting and roosting sites and inclusion of native and wildlife friendly landscape planting that includes a new native species rich hedge and reinforcement of the newly realigned and translocated frontage hedge.
- 5.6 At the site level there is low value botanically poor intensively managed habitats of limited value for local fauna. The loss of such habitats therefore must be considered as limited at the site and local level and as such would not result in any cumulative harm on any adjacent habitats.
- 5.7 Given that the frontage hedgerow has nature conservation value it is preferable to seek to translocate the hedgerow rather than lose it or replant a new hedgerow in compensation. By translocating this hedgerow mature ecological resources can be retained on the site. Ecological resources for new habitat creation schemes will be more rapidly generated. Provision is more rapidly made for ecological function, structure & habitat diversity than habitat creation alone using seeds or nursery materials. The retained hedge line will be able to contribute visually in a similar way to the original. Native species of local provenance are maintained and not lost and relies less on the importation of additional nursery stock to create a new hedge.
- 5.8 The methodology for translocating the frontage hedge outlined here is one used routinely by FPCR and its clients over the last 30 years to successfully translocate valuable hedges that cannot feasibly be retained in their original alignments and is a tried and tested method used to successfully mitigate development impacts.
- 5.9 In light of the findings of the report and the methodology to be implemented, it is our professional opinion that the hedge can reasonably be translocated and therefore impacts to this hedgerow does not warrant a reason to refuse the planning application.
- 5.10 It can be clearly demonstrated that there are no adverse biodiversity impacts arising because of the Appeal Site and the mitigation measures and enhancement proposals provide a betterment at a local level.
- 5.11 The site can be developed in accordance with local plan policies relating to ecology and nature conservation.
- 5.12 I therefore conclude that the appeal scheme can be developed without any significant harm to biodiversity interests, and that positive changes would also arise from the scheme.

APPENDIX 1 ECOLOGICAL APPRAISAL MARCH 2022



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Key

 Site Boundary

 Intact hedge - native species-rich





















 Poor semi-improved grassland

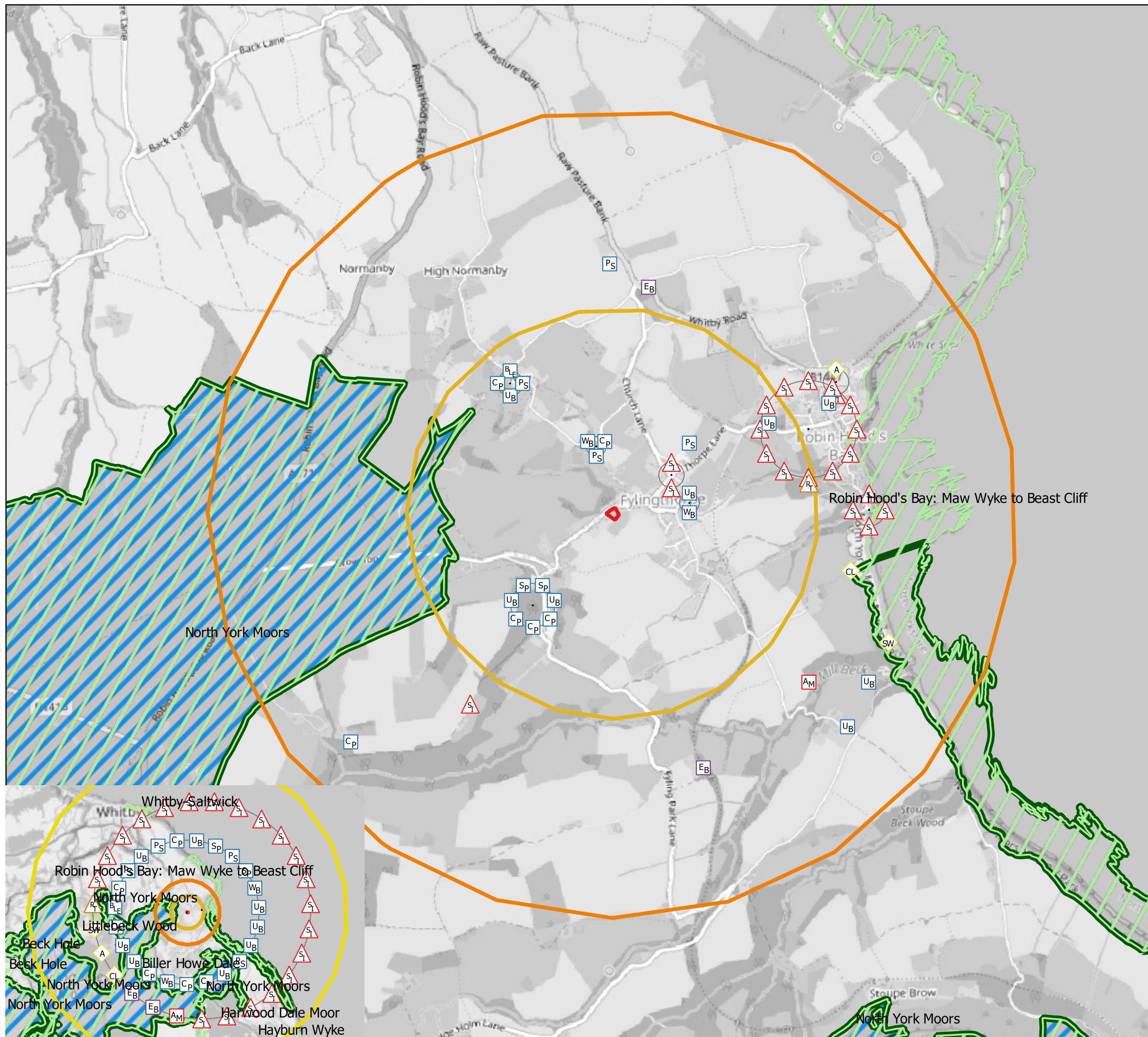

 client
Britology Ltd
 project
Land West of Highfield, Sled Gate, Fylinathorpe
 drawing title
PHASE 1 HABITAT PLAN
 scale
 1:250
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 issue
 22/3/2022
 drawing / figure number
Figure 2
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Key

-  Site Boundary
-  1km buffer
-  2km buffer
-  10km buffer
-  Common pipistrelle
-  Soprano pipistrelle
-  Pipistrelle species
-  Brown long-eared
-  Whiskered bat
-  Unknown bat species
-  European adder
-  Common lizard
-  Slow-worm
-  Eurasian badger
-  Black redstart
-  Swift
-  American mink
-  Sites of Special Scientific Interest (SSSI)
-  Special Area of Conservation (SAC)
-  Special Protected Area (SPA)



client
Britology Ltd

project
Land West of Highfield, Sled Gates,
Fylingthorpe

drawing title
SITE LOCATION AND CONSULTATION PLAN

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SIW Properties Ltd

Land West of Highfield, Sled Gates, Fylingthorpe

Ecological Appraisal

March 2022

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH
Company No. 07128076. [

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Figure 1: Site Location and Consultation Plan

Figure 2: Phase 1 Habitat Plan

APPENDICES

Appendix A: Species List

Appendix B: Hedgerows Results

1.0 INTRODUCTION

- 1.1 The following report has been prepared by FPCR Environment and Design Ltd on behalf of SIW Properties. It provides the results of an Extended Phase 1 Habitat survey including Preliminary Protected Species survey undertaken at a site on Land west of Highfield, Sled Gates, Fylingthorpe (central grid reference NZ940048).
- 1.2 The site has been identified for residential development the need for which is provided in accompanying planning documents submitted with the application. For this site it is not possible to retain the hedge in its current location due to highways issues, affecting visibility splays and corresponding affects to site access. It has also been established that the hedge meets criteria as important under the Hedgerow Regulations 1997 (further comments in this respect are given below).

2.0 METHODOLOGY

Desk Study

- 2.1 To support the field survey and further compile existing baseline information relevant to the site, ecological information was sought from third parties, including records of protected or notable species and sites designated for nature conservation interest. Organisations contacted included:
- North & East Yorkshire Ecological Data Centre (NEYEDC).
- 2.2 Online sources of ecological data were also sought including:
- Multi Agency Geographic Information for the Countryside (MAGIC) website (www.magic.gov.uk).
- 2.3 The search area of interest varied depending upon the likely significance and zone of influence of the data requested, as follows:
- A minimum of a 10km radius around the site was searched for sites with an international statutory designation; Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar sites.
 - A minimum of a 2km radius around the site for sites of national/regional importance with a statutory designation of Site of Special Scientific Importance (SSSI) or National Nature Reserve (NNR).
 - Up to a 1km radius around the site for sites of local importance with statutory designation of Local Nature Reserve (LNR), or non-statutory designation of Site of Importance for Nature Conservation (SINC) or the equivalent Local Wildlife Site (LWS); and
 - 1km search area for records of notable / protected species (i.e., including Species of Principal Importance under S41 of the Natural Environment and Rural Communities Act (NERC) 2006 and local biodiversity action plan species.

Field Survey – Habitats/Flora

Extended Phase 1 Survey

- 2.4 Extended Phase 1 habitat survey followed the methodology recommended by Natural England which largely follows guidance from JNCC 2010¹. The survey comprised a walkover of the site, mapping the principal habitat types present and identifying the dominant or characteristic plant species present within them.
- 2.5 Any habitats suitable for, or features with the potential to support, protected or notable species were also assessed and recorded with the survey undertaken on 4th March 2022 by a suitably experienced ecologist from FPCR.

Hedgerows

- 2.6 The hedgerows were assessed against the Wildlife and Landscape criteria contained within Statutory Instrument No: 1160 – The Hedgerow Regulations 1997² to determine whether they qualified as 'Important Hedgerows' under the Regulations. This was achieved using a methodology in accordance with both the Regulations and DEFRA guidance³.

3.0 RESULTS

Desk Study

- 3.1 A summary of the relevant information is provided below; original data provided by the consultees has not been included in this report. Locations of statutory and non-statutory designated sites referred to in the following section are illustrated on Figure 1 Consultation Plan.

Statutory Designated Sites

- 3.2 Two sites of international importance are present within 10km of the Site. Beast Cliff-Whitby (Robin Hood's Bay) SAC is located 1.2km southeast, and the North York Moors SAC and SPA located c. 770m west of the site. Both these areas are also covered by SSSI protection.
- 3.3 Beast Cliff-Whitby (Robin Hood's Bay) SAC is designated for its Annex I habitat; vegetated sea cliffs of the Atlantic and Baltic coasts, no other qualifying species or features are noted in its designation. The SSSI is designated for its geological interest, the coastal/woodland vegetation, and the zonation of marine biotopes on the rocky foreshore.
- 3.4 The key features of the North York Moors SAC SPA SSSI are the wet and dry heathlands dominated by heather *Erica sp.* and *Calluna vulgaris* which are the primary reason for designation. Blanket bogs are a qualifying feature but not a reason for the designation. The North York Moors SPA annex 1 species listed on article 4.1 of the citation include merlin *Falco columbarius* and golden plover *Pluvialis apricaria*. The citation states that during the breeding season the area regularly supports 2.7% of Great Britain's breeding population of merlin and 2.3% of the population of golden plover. No other species are listed in the citation.

Non-Statutory Designated Sites

- 3.5 There were no non-statutory sites within 2km search area.

¹ JNCC, (2010), Handbook for Phase 1 habitat survey - a technique for environmental audit, ISBN 0 86139 636 7

² <http://www.legislation.gov.uk/ukxi/1997/1160/contents/made>

³ DEFRA. (1997). *The Hedgerow Regulations 1997. A Guide to the Law and Good Practice*. London: HMSO

Protected Species

- 3.6 Records of protected and priority faunal species derived from the desk study consultees are provided in Table 1 Consultation Results below. Species records have been filtered to comprise protected and / or notable species within 2km of the site boundary from the last 25 years. The locations of the pertinent species records are mapped on Figure 1.

Table 1: Consultation Results

Species		Conservation Status	Total Number of Records within 2km	Location / Minimum distance of records from site boundary
<i>Pipistrellus pipistrellus</i>	Common Pipistrelle	Regs, WCA, Sch5. LBAP	6 From unknown to maternity roosts	330m north remaining records are to the west of the Site
<i>Pipistrellus pygmaeus</i>	Soprano Pipistrelle	NERCSPI, Regs, WCA, Sch5. LBAP	2 unknown to maternity roosts	515m and 660m west
<i>Pipistrellus sp</i>	Pipistrelle species	Regs, WCA, Sch5. LBAP	4 Unknown to summer roost	375m east
<i>Plecotus auritus</i>	Brown Long-eared Bat	NERCSPI, Regs, WCA, Sch5. LBAP	1 Summer roost	810m north west
<i>Myotis mystacinus</i>	Whiskered Bat	Regs, WCA, Sch5. LBAP	2 Up to 6 bats	330m north and 360m east
<i>Unknown Bat Species</i>	Unknown	Regs, WCA, Sch5. LBAP	8 Unknown to summer roost	360m east Remaining records surround site
<i>Vipera berus</i>	Adder	NERCSPI; WAC-Sch5_sect9.1; WACA-Sch5_sect9.5a LBAP	1 Count of 1 adult	1.2km north east
<i>Zootoca vivipara</i>	Common Lizard	NERCSPI; WAC-Sch5_sect9.1; WAC-Sch5_sect9.5a LBAP	1 Count of 1 adult	1.2km south east
<i>Anguis fragilis</i>	Slow worm	NERCSPI; WAC-Sch5_sect9.1; WAC-Sch5_sect9.5a LBAP	1 Count of 1 adult	1.5km southeast
<i>Meles meles</i>	Eurasian Badger	Protection_of_Badgers_Act_1992	2	1.1km north 1.3km south

Species		Conservation Status	Total Number of Records within 2km	Location / Minimum distance of records from site boundary
<i>Phoenicurus ochruros</i>	Black Redstart	Bern-A2; BoCC Amber; WACA-Sch1_part1	1	970km east
<i>Apus apus</i>	Swift	BoCC Red	20 Counts between 2 and 30	Closest record 320m east, records largely located towards the coast over 1km away.
<i>Neovison vison</i>	American Mink	INNS	1	1.3km southeast

Status Key: Regs = The Conservation of Habitats and Species Regulations 2017 (As amended). WCA = Wildlife and Countryside Act 1981 (as amended). Sch5 = Schedule 5 of WCA. NERCSPi = Species of Principal Importance, as listed under the Natural Environment and Rural Communities Act (2006), BoCC Red = Birds of conservation concern Red List, BoCC Amber = Birds of conservation concern Amber List LBAP = Scarborough Biodiversity Action Plan, INNS = Invasive Non-Native Species.

Habitats

- 3.7 The habitats described below correspond to those mapped on Figure 2 Phase 1 Plan. Botanical species lists for the habitats are provided in Appendix A.

Poor Semi-improved Grassland

- 3.8 The Site comprised a section of a larger poor semi-improved grassland with characteristics of a MG6 grassland. The area was dominated by grasses and rushes which included frequent to abundant Yorkshire fog *Holcus lanatus*, occasional perennial ryegrass *Lolium perenne* and cocks' foot *Dactylis glomerata*. Soft rush *Juncus effusus* and creeping bent *Agrostis stolonifera* were both locally frequent. Herbaceous species were rarer but pignut *Conopodium majus* was locally frequent in the northwest of the site where it was drier. The field margin associated with H1 was ecologically more interesting with an increase in the herbaceous species present.
- 3.9 Poor semi-improved grassland of limited diversity and comprising common and widespread species, such as the grassland within the site, is a common and ubiquitous habitat both nationally and locally accordingly and is therefore considered to be of negligible nature conservation value and has not considered to be important within the context of this assessment.

Hedgerows

- 3.10 A single hedgerow was present onsite, and a second offsite hedgerow formed the eastern boundary (Refer to Table 2 Hedgerow Survey Summary & Photos 1 and 2 below).

Table 2: Hedgerow Survey Summary

Ref		Canopy Sp. (from most abundant to least abundant)	Height / Width (m)	Length (m)	Sp. per Av. 30m	Notes	Net Gain Assessment		Important Hedgerow
H1		Rf, Rc, Fe, Ap, Cm, Ia, Ps, Lp	1.5 / 1.7	56.6	5	No gaps, Wall, > 3 woodland species	<p>Gap at hedge base <0.5m</p> <p>>1m of undisturbed perennial vegetation None</p> <p><20% undesirable perennial vegetation Yes</p> <p>≥10% invasive/neophyte species Yes</p> <p>≥10% Damaged by humans No</p>	Yes	
H2		Cm, Salsp, Ac, Ca, Rc, Ia, Cs	0.8	40	5	No gaps	<p>Gap at hedge base >0.5m</p> <p>>1m of undisturbed perennial vegetation None</p> <p><20% undesirable perennial vegetation Yes</p> <p>≥10% invasive/neophyte species No</p> <p>≥10% Damaged by humans Yes</p>	No	

Species Key: Ac *Acer campestre* – field maple, Ap *Acer pseudoplatanus* – sycamore, Cm *Crataegus monogyna* – hawthorn, Rc *Rosa canina* – dogrose, Rf *Rubus fruticosus* agg. – bramble, Salsp *Salix spp*– A willow, Ia *Ilex aquifolium* - holly, Ps *Prunus spinosa* – blackthorn, Ln *Lonicera sp* – A honeysuckle, Ca *Corylus avellana* – hazel



Photo 1: Showing Hedgerow 1 in the background with poor SI grassland, taken from the southeast



Photo 2: Showing offsite hedgerow 2 taken from northeast corner of site

Fauna

Bats

- 3.11 There were no trees or structures on site which would provide potential roosting features. No records of roosting bats were returned from the local bat group.
- 3.12 The Hedgerows provide some suitable foraging and commuting habitat.

Birds

- 3.13 Hedgerows on site provide suitable nesting habitats for some bird species.
- 3.14 Given the size of the site it is considered unlikely that the site will be of significant value to over-wintering birds.

Great Crested Newts

- 3.16 Three ponds were noted within 500m of the Site boundary, the closest pond was located approximately 100m northeast of the Site boundary. From aerial photo this appears to be a man-

made pond which is surrounded by hard standing on three sides. The second pond is located over 300m north and the is located over 400m southwest of the site.

Reptiles

- 3.17 The habitat on site lacked a variation in structure which is required by reptile species to provide both shelter and basking opportunities.

Additional Protected / Notable Species

- 3.18 No evidence of, or potential for other protected species was observed on site at the time of surveying.

4.0 DISCUSSION

Statutory Sites

- 4.1 The degree to which designated sites receive consideration under the planning system and legislative protection depends on the designation itself and its level of importance and value. This ranges from sites of international importance protected by UK legislation that transposes European directives, to protection under UK legislation or national and local planning policy.
- 4.2 Beast Cliff-Whitby (Robin Hood's Bay) SAC located 1.2km southeast of the site, this is designated for its vegetated sea cliffs. Given the reason for designation and the distance from the site it is considered unlikely that the development would directly impact it.
- 4.3 The North York Moors National Park, which is also designated as an SPA, SAC and SSSI is located 770 m west of the survey area. Species listed as reasons for the SPA designation comprised of merlin and golden plover, both of which are for breeding only. As breeding habitat for these species are not present on site it is considered unlikely that the development would impact these species.
- 4.4 It is estimated that around 8 million people visit the North York Moors every year⁴. Given the low numbers of properties proposed for the site and the high visitor numbers in the area, the increase from human activity will not be significant.

Non-Statutory Designated Sites

- 4.5 There were no non-statutory sites within 2km search area.

Habitats

- 4.6 The degree to which habitats receive consideration within the planning system relies on a number of mechanisms, including:
- Inclusion within specific policy (e.g. veteran & ancient trees and ancient woodland in NPPF, or non-statutory site designation),
 - Identification as a habitat of principal importance for biodiversity under Natural Environment and Rural Communities Act (NERC) 2006 and consequently identification as a Priority Habitat within

⁴[https://www.northyorkmoors.org.uk/about-us/press-office/facts-and-figures#:~:text=Around%208.03%20million%20people%20visit,year%20\(2018%20STEAM%20Report\).](https://www.northyorkmoors.org.uk/about-us/press-office/facts-and-figures#:~:text=Around%208.03%20million%20people%20visit,year%20(2018%20STEAM%20Report).)

the local Biodiversity Action Plan (LBAP) and a Priority Habitat for England under Biodiversity 2020.

- 4.7 The poor semi-improved grassland was considered to be of low nature conservation value and no rare or notable plant species were confirmed in these habitat types. Consequently, the loss of these habitats is not considered significant and, as such, they are not considered further within this assessment.

Hedgerows

- 4.8 Hedgerow 2 was located off site; due to a lack of associated features it does not meet the criteria as important under the Hedgerow Regulations 1997 (See also Appendix B Hedgerow Evaluation Results). However due to the high proportion of native species it is a habitat of principle importance. The hedgerow should be protected through the inclusion of barrier fencing throughout the development.
- 4.9 From this independent survey, we are able to confirm that Hedgerow 1 is meets the criteria as important under schedule 1 part II of The Hedgerow Regulations 1997 (Refer also to Appendix B Hedgerow Evaluation Results). Its protection comes from paragraph 7 (b) at least 6 woody species and at least 3 of the features specified in sub-paragraph (4). Due to the location of the hedgerow within North Yorkshire the number of species needed to meet this criterion is reduced by 1. Five species on the woody species list were recorded within a 30m section. The associated features included the presence of a wall along the hedgerow, no gaps, and the presence of greater than 3 woodland species on schedule 2 of the Act. Those present during the survey comprised barren strawberry *Potentilla sterilis*, hart's-tongue *Asplenium scolopendrium* herb Robert *Geranium robertianum*, lords-and-ladies *Arum maculatum*, male-fern *Dryopteris filix-mas*, pignut *Conopodium majus*, primrose *Primula vulgaris*, soft shield-fern *Polystichum setiferum*, and wood avens *Geum urbanum*.
- 4.10 In addition, under the habitat descriptions for Hedgerow Habitat of Principal Importance as listed within Section 41 of the NERC Act, the hedges H1 & H2 consist of 80% or more native species and therefore qualify as HPI.

Fauna

Bats

- 4.11 All species of bats and their roosts are listed on the Conservation of Habitats and Species Regulations 2017 (as amended) making it illegal to deliberately disturb any such animal or damage / destroy a breeding site or roosting place of any such animal. Bats are also afforded full legal protection under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Under this legislation it is illegal to recklessly or intentionally kill, injure or take a species of bat or recklessly or intentionally damage or obstruct access to or destroy any place of shelter or protection or disturb any animal whilst they are occupying such a place of shelter or protection. Some bat species, including soprano pipistrelle, are species of principal importance under the NERC Act.
- 4.12 No records of bats were returned from NEYEDC for within the site. There were no trees or structures which provide potential roosting opportunities for bats. The hedgerows on and adjacent to the site are likely to provide some foraging and commuting habitat for any species present in the local area.

- 4.13 Under the current proposals the onsite hedgerow will be translocated reinforced by new planting in the form of standard trees and reconnected to the local hedgerow network. Along with an additional new hedge line (to be planted in the south of the site) this will provide significantly more foraging and commuting habitat. A section of approximately 8m of the hedgerow will be lost for the access road/service path however this could be translocated to the newly created native hedgerow along the southeastern site boundary.
- 4.14 Overall, there will be an increase of c. 25m of hedgerow after the development. This will provide an increase in foraging and commuting habitats for bats in the local and immediate area.

Birds

- 4.15 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Several species of wild birds are also listed on Schedule 1 of the Act which provides protection for the species at all times. Single record for black redstart a schedule 1 species was returned from 970m east of the site in 2013. Swifts are frequently recorded in the area. Habitats on site are not suitable nesting habitats for either species.
- 4.16 The removal of any vegetation suitable to support nesting birds including hedges & trees should be undertaken outside of the main bird breeding season (March to September inclusive) (unless prepared prior to this period by management in the case of hedges) to minimise the risk of disturbance to breeding birds. If this is not possible, vegetation to be removed should be checked prior to its removal by a suitably experienced ecologist. If active nests are found, vegetation should be left untouched and suitably buffered from works until all birds have fledged. Specific advice would need to be sought prior to undertaking any vegetation clearance on site within the bird nesting season.

Great Crested Newt

- 4.20 Great crested newts are afforded legal protection by Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and under the Conservation of Habitats and Species Regulations 2017 (as amended). Great crested newts are also listed as a species of principal importance under the NERC Act.

- 4.21 Consultation with the local records centre returned no records of GCN from within the 1km search area.
- 4.22 The poor semi-improved grassland provides sub-optimal terrestrial habitat for great crested newts in their terrestrial phase. Hibernation potential is present in the base of the hedgerow and wall, however, there is no breeding habitat present on site.
- 4.23 The pond closest to the site and the pond 300m north were both surveyed as part of the Natural England eDNA survey undertaken for district licensing in 2019. Both ponds were negative for GCN eDNA.
- 4.24 As such it is considered that GCN do not pose a statutory constraints to the development of the Site.

Reptiles

- 4.25 All British reptiles are protected from killing and injury under the Wildlife and Countryside Act 1981 (as amended) and are listed as species of principal importance for the conservation of biodiversity under the NERC Act, indicating that public bodies, such as the Local Planning Authority, have a duty to have regard to the conservation of these species.
- 4.26 Habitats on site were considered sub-optimal due to their homogenous nature and lack of suitable structure. No records were returned for within 1 km of the site therefore it is considered that reptile species do not pose a statutory constraint to development.

5.0 APPENDIX A: SPECIES LISTS

Poor semi-improved grassland

Common Name	Latin Name	DAFOR
Common Bent	<i>Agrostis capillaris</i>	O
Creeping Bent	<i>Agrostis stolonifera</i>	LF
Meadow Foxtail	<i>Alopecurus pratensis</i>	R
Pignut	<i>Conopodium majus</i>	LF
Cock's-foot	<i>Dactylis glomerata</i>	O
Red Fescue	<i>Festuca rubra</i>	R
Yorkshire-fog	<i>Holcus lanatus</i>	F/A
Creeping Buttercup	<i>Ranunculus repens</i>	F
Broad-leaved Dock	<i>Rumex obtusifolius</i>	R
Soft-rush	<i>Juncus effusus</i>	LF
Perennial Rye-grass	<i>Lolium perenne</i>	O
Ribwort Plantain	<i>Plantago lanceolata</i>	R
Meadow Buttercup	<i>Ranunculus acris</i>	O
Common Sorrel	<i>Rumex acetosa</i>	R
Dandelion	<i>Taraxacum officinale agg.</i>	R
Bush Vetch	<i>Vicia sepium</i>	R

Hedgerows

Hedgerow 1

Woody Species

Common Name	Latin Name
Ash	Fraxinus excelsior
Bramble	Rubus fruticosus
Dog Rose	Rosa canina
Sycamore	Acer pseudoplatanus
Hawthorn	Crataegus monogyna
Honeysuckle	Lonicera sp.
Holly	Ilex aquifolium
Blackthorn	Prunus spinosa

Ground cover

Common Bent	<i>Agrostis capillaris</i>
Meadow Foxtail	<i>Alopecurus pratensis</i>
Lords-and-Ladies	<i>Arum maculatum</i>
False Brome	<i>Brachypodium sylvaticum</i>
Red Valerian	<i>Centranthus ruber</i>
Creeping Thistle	<i>Cirsium arvense</i>
Pignut	<i>Conopodium majus</i>

Cock's-foot	<i>Dactylis glomerata</i>
Male-fern	<i>Dryopteris filix-mas</i>
Red Fescue	<i>Festuca rubra</i>
Snowdrop	<i>Galanthus nivalis</i>
Cleavers	<i>Galium aparine</i>
Herb-Robert	<i>Geranium robertianum</i>
Wood Avens	<i>Geum urbanum</i>
Common Ivy	<i>Hedera helix</i>
Yorkshire-fog	<i>Holcus lanatus</i>
Nipplewort	<i>Lapsana communis</i>
Spear Thistle	<i>Cirsium vulgare</i>
Cow Parsley	<i>Anthriscus sylvestris</i>
Meadow Vetchling	<i>Lathyrus pratensis</i>
Perennial Rye-grass	<i>Lolium perenne</i>
Hart's-tongue	<i>Asplenium scolopendrium</i>
Smooth Meadow-grass	<i>Poa pratensis</i>
Soft Shield-fern	<i>Polystichum setiferum</i>
Barren Strawberry	<i>Potentilla sterilis</i>
Primrose	<i>Primula vulgaris</i>
Lesser Celandine	<i>Ranunculus ficaria</i>
Common Sorrel	<i>Rumex acetosa</i>
Smooth Sow-thistle	<i>Sonchus oleraceus</i>
Greater Stitchwort	<i>Stellaria holostea</i>
Dandelion	<i>Taraxacum officinale agg.</i>
Common Nettle	<i>Urtica dioica</i>
Bush Vetch	<i>Vicia sepium</i>
Rough-stalked Feather-moss	<i>Brachythecium rutabulum</i>
Common Hogweed	<i>Heracleum sphondylium</i>
Common Ivy	<i>Hedera helix</i>

Hedgerow 2

Woody Species

Common Name	Latin Name
Willow	Salix sp.
Bramble	Rubus fruticosus
Dog Rose	Rosa canina
Dogwood	Cornus sanguinea
Hawthorn	Crataegus monogyna
Field maple	Acer campestre
Holly	Ilex aquifolium
Hazel	Corylus avellana

Ground cover

Cock's-foot	<i>Dactylis glomerata</i>
-------------	---------------------------

ASSOCIATED FEATURES column i if adjacent to a PROW	Use	i	ii
	One or more standards per 50m		
Less than 10% gaps			/
Ditch for over 50% of hedge			
Bank or wall for over 50% of hedge			
Connections scoring 4 points or more			
A parallel hedge within 15m			
Three or more woodland species			
TOTAL			1





















ASSESSMENT CRITERIA	
Within Hull, Cumbria, Darlington, Durham, East Riding of Yorks, Hartlepool, Lancs, Middlesbrough, NE Lincs, N Lincs, Northumberland, N Yorks, Redcar & Cleveland, Stockton-on-Tees, Tyne and Wear, W Yorks or York, the number of woody species in the assessment criteria is to be reduced by one for a), b), c) & d)	
a) Rare or protected species present	
b) 7 or more woody species	
c) 6 woody species and at least 3 associated features	
d) 6 woody species and at least one of 4 listed species	
e) 5 woody species and at least 4 associated features	
f) Adjacent to PRoW & includes ≥ 4 woody species and at least 2 associated features	

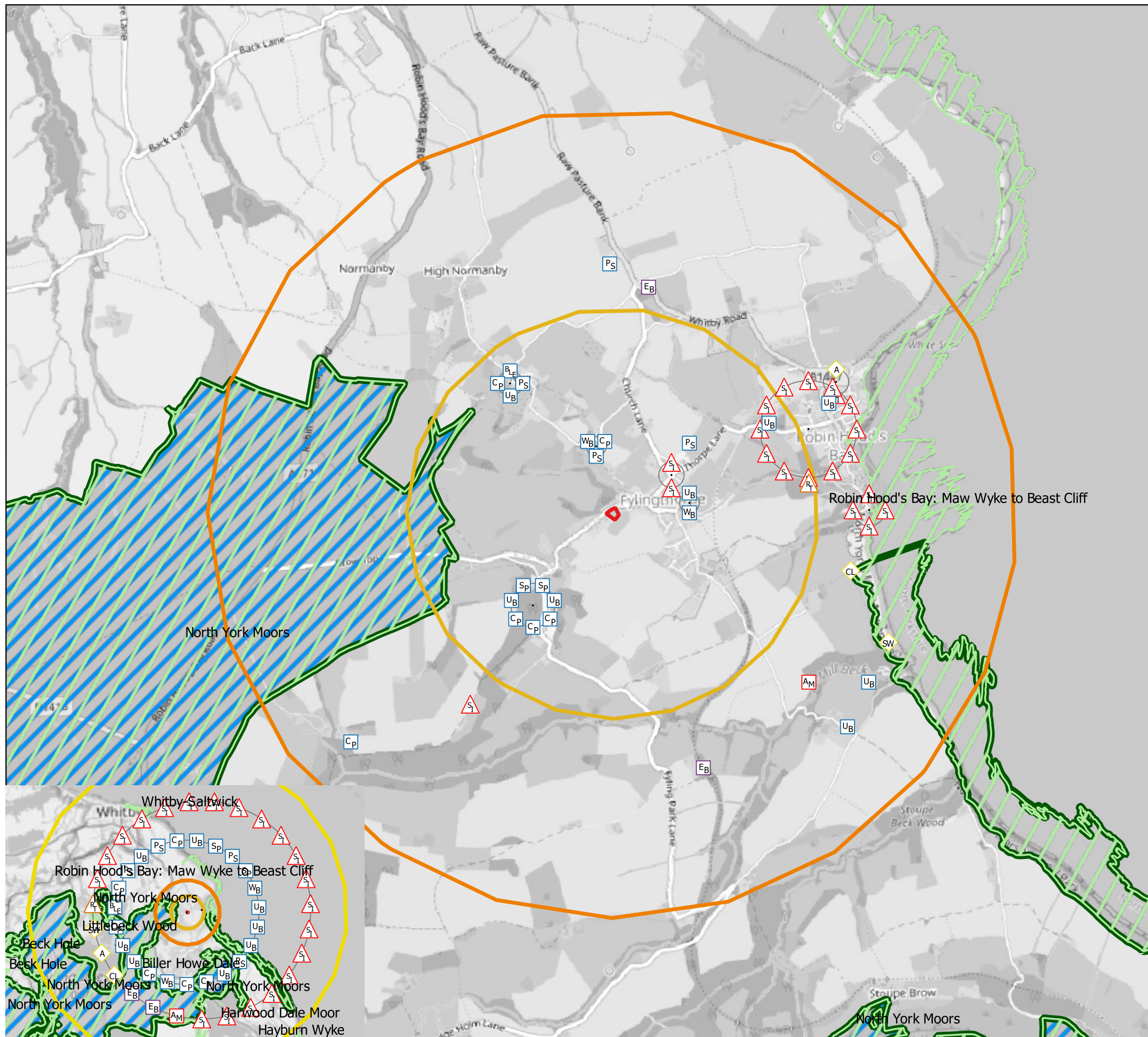
Net Gain condition assessment – Supplementary info.					
Gap at hedge base	>0.5m	/	<0.5m		
>1m of undisturbed perennial vegetation	None	/	1 side		2 sides
<20% undesirable perennial vegetation	No		Yes	/	
≥10% invasive/neophyte species	Yes		No	/	
≥10% Damaged by humans	Yes	/	No		

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Key

-  Site Boundary
-  1km buffer
-  2km buffer
-  10km buffer
-  Common pipistrelle
-  Soprano pipistrelle
-  Pipistrelle species
-  Brown long-eared
-  Whiskered bat
-  Unknown bat species
-  European adder
-  Common lizard
-  Slow-worm
-  Eurasian badger
-  Black redstart
-  Swift
-  American mink
-  Sites of Special Scientific Interest (SSSI)
-  Special Area of Conservation (SAC)
-  Special Protected Area (SPA)



client
Britology Ltd

project
Land West of Highfield, Sled Gates,
Fylingthorpe

drawing title
SITE LOCATION AND CONSULTATION PLAN

scale
1:20000

drawing / figure number
Figure 1

issue
17/3/2022

drawn
SH /

rev
-



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Key

 Site Boundary

 Intact hedge - native species-rich

 Poor semi-improved grassland

client
Britology Ltd

project
Land West of Highfield, Sled Gate,
Fylinathorpe

drawing title
PHASE 1 HABITAT PLAN


scale
1:250

drawn
SH /

issue
22/3/2022

drawing / figure number
Figure 2

rev
-






Britology Ltd

Land West of Highfield, Sled Gates, Fylingthorpe
Hedgerow Translocation Method Statement

16th December 2021

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH
Company No. 07128076. [T]

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Rev	Issue Status	Prepared / Date	Approved / Date
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TABLES

Table 1: Methods to achieve objectives

PHOTOGRAPHS

Photograph 1: Trial hole on site, approximately 2m from the base of the hedge

1.0 INTRODUCTION

- 1.1 This Hedgerow Translocation Method Statement has been produced by FPCR Environment and Design Ltd. (FPCR) on behalf of Britology Ltd who act on behalf of the applicant. The hedgerow in question is located along the site frontage on land West of Highfield, Sledgates, Fylingthorpe.
- 1.2 The purpose of this document is to assess the state of the hedge, the presence of physical factors which may affect the feasibility and methods for translocation, a description of the particular methods to be used for the translocation of the hedgerow, the key elements that should be considered to ensure successful relocation and to demonstrate the expertise of FPCR to complete this work.
- 1.3 In the context of new developments, the translocation of hedgerows is only considered where all other options to retain the hedgerow have been explored and it has been judged appropriate on the individual merits of that particular case. A full account of all ecological, landscape and arboricultural constraints and the relevant statutory guidance, planning policy and regulations also need to be considered.
- 1.4 The site has been identified for residential development, the need for which is provided in accompanying planning documents submitted with the application. For this site, it is not possible to retain the hedge in its current location due to highways issues affecting visibility splays and corresponding affects to site access.

Permitted Works under Hedgerow Regulations 1997 & North York Moors National Park Authority Supplementary Planning Documents

- 1.5 Part Three of the 'Design Guide Supplementary Planning Document'¹ (SPD) of the North York Moors National Park Authority Local Development Framework recognises the provisions in the Hedgerow Regulations.
- 1.6 Under the Hedgerow Regulations 1997 ("the Regulations") it is against the law to remove most countryside hedgerows without first obtaining permission from the local planning authority.
- 1.7 Provision 5(1) of the Regulations² states that:

"Subject to the exceptions specified in regulation 6, the removal of a hedgerow to which these Regulations apply is prohibited unless (a) the local planning authority in whose area the hedgerow is situated ..have received.. a proposal to remove the hedgerow ("hedgerow removal notice") together with the plan and evidence mentioned in the form set out in Schedule 4."

- 1.8 There are a number of "permitted works" set out in the Regulations. Under Provision 6 (1), the LPA's permission is not required before the hedgerow is removed if:

"the removal of any hedgerow to which these Regulations apply is permitted if it is required...(e) for carrying out development for which planning permission has been granted or is deemed to have been granted..."

¹ <https://www.northyorkmoors.org.uk/planning/framework/spds/dgpt3.pdf> accessed 16.12.21

² <https://www.legislation.gov.uk/uksi/1997/1160/regulation/5/made>, accessed 16.12.21

- 1.9 The main benefits of translocating hedgerows include, that it:
- allows mature & complex ecological resources to be retained on or near the site;
 - generates ecological resources for new habitat creation schemes rapidly;
 - provides ecological function, structure & habitat diversity more quickly than habitat creation using seeds or nursery materials;
 - provides quick visual screening, wind breaks and landscape benefits;
 - maintains native species of local provenance; and
 - may have a smaller carbon footprint than habitat creation using nursery materials.
- 1.10 Other factors which will need to be considered but are outside the scope of this report are the location of services (a streetlamp was observed abutting the hedgerow), that operations are likely to require a traffic management system, and permission from the highway authority given the proximity of the hedge to Sled Gates.

2.0 BACKGROUND CONSIDERATIONS & COMPANY EXPERTISE

- 2.1 FPCR are a multi-disciplinary practice who offer a complete ecological service covering a range of disciplines, which have been utilised by numerous nationally known client bodies. We have over 50 years of experience of providing ecological and arboricultural advice. During this time, we have worked on many habitat translocation and large-scale habitat re-creation schemes. Habitat translocation has involved wetland, grassland, individual trees, scrub, and hedges. We have also completed specialist translocations involving habitats on more complex sites such as those developed on pulverised fuel ash containing orchid assemblages.
- 2.2 Examples of work we have conducted or have been directly involved in where hedgerow translocation was required included numerous larger scale developments from minerals to infrastructure projects. For example, for UK Coal Ltd. these include sites located across the East Midlands and Northeast. We have also worked with UK Coal's predecessors going back 30 years, and have been involved in outlining methods and approaches to habitat recreation and translocation over this period. A total of 550m of hedgerows was successfully translocated in collaboration with UK Coal Estates management teams.
- 2.3 More recently FPCR, working alongside a specialist contractor, successfully translocated hedgerows as part of the Northampton Gateway Rail Freight Interchange for Segro Ltd.; a total of 2776m of conservation grade hedges were translocated. Images from these sites have been included within Appendix A to provide a visual aid of the work required.
- 2.4 The majority of these sites have required the preparation of management plans and subsequent monitoring for which we routinely provide input and support.
- 2.5 FPCR can therefore demonstrate expertise attained over many decades of being involved in successful habitat recreation and translocation work for many schemes.

Hedgerow Evaluation

- 2.6 The hedgerow is located along the frontage of the site and runs alongside Sled Gates. It is described and defined in the Hedgerow Assessment produced by Middleton Bell Ecology (MBE) in 2021, as being a native species rich hedgerow, with no gaps present, atop a small hedge bank

- and wall. Former laying/coppicing was evident, and the hedgerow had a good structure with no/little vertical gaps from the base. The hedge was noted to appear to have been recently managed.
- 2.7 Whilst the survey carried out by MBE did not confirm the hedgerow to be 'important' under the Hedgerow Regulations 1997, third party submissions provided further data to suggest the hedge met criteria as 'important'.
- 2.8 Representations were also made with regard to the lack of ecological supporting information, reliance on out-of-date survey information, and the validity of surveys provided in support of the application.
- 2.9 Dr Tim Reed of St Ives Cambridgeshire (a retired Consultant Ecologist) in in his representation (made C/O The Pond House Sledgates, Fylingthorpe) maintained that the hedgerow qualified as important under the Regulations on the basis of "**5 confirmed woody species and 3 associated qualifying features.**" However, under Provision 7 (d)³, the lowest of the categories for qualification as an important hedge, the Regulations state: "*at least 5 woody species, and has associated with it at least 4 of the features specified in sub-paragraph (4)*". The hedgerow only meets three: a bank or wall supporting a hedgerow, less than 10% gaps, and at least three woodland species within 1m. The remaining categories – presence of a ditch, trees, connections scoring more than 4 points and a parallel hedge adjacent – are absent.
- 2.10 In reviewing the hedge on site and the information available, it is therefore doubtful that the hedgerow in question would be able to meet any additional criteria under the minimum category to be considered as an important hedgerow under the Regulations. Nevertheless, under the habitat descriptions for Hedgerow Habitat of Principal Importance (HPI) as listed within Section 41 of the NERC Act, the hedge consists of 80% or more native species and therefore qualifies as HPI.
- 2.11 The local planning authority is required to consider any priority habitats that could be potentially affected during development. Where a priority habitat is present, the mitigation hierarchy should be applied. This means that impacts on these habitats should be avoided where feasible and, in cases where this is not possible, measures which reduce any such negative impact should be explored. Losses of such habitats should be compensated for as part of development proposals.
- 2.12 In considering the mitigation hierarchy, it is confirmed that the hedgerow cannot be retained in its current alignment due to highways requirements. Mitigation measures can however be applied to minimise the potential loss of hedgerow habitat and regardless of the hedgerow's conservation status, it is preferable to seek to translocate the hedgerow rather than lose it or replant a new hedgerow in compensation.
- 2.13 The hedge is considered suitable for translocation, and it is considered that the hedge could be readily relocated further into the site to retain what is a valuable nature conservation resource. By relocating further into the site, the required visibility splays and access works can be completed without constraint, and the hedge line can be reconnected not far from its original alignment, reinforced, and managed to enable it to continue to serve as a functional ecological unit.
- 2.14 A sketch of the cross section of the hedge can be seen in Appendix B. A small trial hole was dug into the soil on 4th December 2021, approximately 2m from the base of the hedge, as shown on Photograph 1 below. The soil profile confirms little evidence of lateral roots extending far from the

³https://www.legislation.gov.uk/ukxi/1997/1160/schedule/1/paragraph/7/made/data.xht?view=snippet&wra_p=true, accessed 16.12.21

hedge base (likely to be within 1m of hedge base). The soil profile confirms a uniform clay-clay/loam which should allow for good extraction of both the component shrubby species and associated ground flora, but care will be needed to avoid excessively wet conditions.



Photo 1: Trial hole on site, approximately 2m from the base of the hedge

Additional proposals in Mitigation

- 2.15 The development proposals also include the planting of a new native species hedge to define the southern site boundary and to provide net gain. Where feasible, species should include those of local providence and be appropriate to the location (see Section 3.4 below for native tree and shrub species). Again, planting will include tree species such as oak and ash which will be allowed to develop into standards to create structure as well as increasing diversity.

3.0 METHOD STATEMENT

- 3.1 The translocation of the hedgerow has been identified as key to facilitating development of the Site.

Locations

- 3.2 The hedgerow is located along the frontage of the site and runs alongside Sled Gates. A section of the hedgerow c.8m will need to be lost to create an access road and service paths. The remaining length is subject to the translocation. It is also proposed that the original retaining wall is rebuilt in front of the hedgerow and the hedge set back onto a small bank to recreate the original profile (Appendix B).
- 3.3 The final location of the translocation will be along the frontage of the new development, very close to its original alignment. This minimises any issues in relation to extraction, effects of transportation, drying out and any potential damage. Once established, the hedge line will look similar to the original; the hedge will be retained albeit aligned further into the development. Original connections

will be preserved, and the hedge connected to a proposed new hedge in the southern site boundary.

- 3.4 It is recommended that the sycamore specimens are removed (as they are introduced non-native species) and the hedgerow reinforced by new planting of native locally-appropriate species, the aim being to build in greater diversity, habitat value and resilience. Species may include oak, ash, rowan, hazel, wild cherry, and hawthorn. Along with reinforcing any gaps, trees will be planted at intervals along the relocated hedge to become future standards.

Timing & Preparatory Works

- 3.5 A summary of the translocation timings and preparation methodology is presented in Table 1, below.
- 3.6 Preparatory works should comprise coppicing to remove all growth to approx. 1m and trenched root pruning to the southern side of the hedgerow. This should include backfilling opened trenches to allow the development of better root balls to ensure better survival of transplants. The aim is to achieve a manageable aerial component to the hedge.
- 3.7 These works should include clearance of any other vegetation (prior to a nesting bird check) to allow trenching, removal of obstacles, and trial holes. This would also allow an assessment of the root structure to be undertaken at the time.
- 3.8 The hedge, having been prepared as described above, would be ready for the next phase of translocation which would take place in the Autumn/Winter period.
- 3.9 Due to the presence of a retaining wall and adjacent footpath it is recommended that that roots on the northern side of the hedgerow are cut on the day of translocation.
- 3.10 The physical translocation of the hedgerows will be completed during the dormant period between October and March inclusive, which will allow the hedgerow to establish in its new location before the summer. During this period, translocations will not take place during extreme or inclement weather resulting in ground frost, snow, or heavy rain.

Equipment

Preparatory works

- 3.11 Preparatory works should be undertaken using a trenching machine and air spades. A root saw can be used for larger roots.

Translocation

- 3.12 A suitable 360-degree excavator, likely in excess of 30 tonnes, should be used to move the sections of the existing hedgerow with minimal disturbance in sections as large as possible. A low ground pressure tracked machine with a suitable reach should be used.
- 3.13 The recommended bucket width is a minimum of 1.5m, but this is dependent on ground conditions and a narrower bucket may be necessary. Nevertheless, the bucket should be sufficient to remove roots from a depth of approximately 1m, though most roots will be within the first 0.5m.

- 3.14 Due to the distances involved, it is not considered necessary to place excavated plant material and associated soils onto a flatbed trailer or similar kit to transfer to the receptor site. Instead to minimise disturbance once excavated, sections of hedge will be transferred directly in the bucket.

Summary Methodology

- 3.15 A summary of the translocation timings and methodology is presented in Table 1, below. Images from example sites have been included within Appendix A to provide a visual aid of the work required.

Table 1: Methods to achieve objectives – see images in Appendix A for illustrations

ACTION	MANAGEMENT TO ACHIEVE OBJECTIVE – PRE-TRANSLOCATION	MANAGEMENT TO ACHIEVE OBJECTIVE – POST-TRANSLOCATION
1. Protected Species Survey Update	Prior to work commencing, an ecologist will conduct a walkover survey of the hedge to be prepared for translocation looking for signs of any protected species. The findings of this survey will be used to refine the extent of the works and any timing restrictions required will be adhered to.	No further management required
2. Nesting Bird Checks	Nesting bird season runs between March and September (inclusive). Nesting bird checks would not be required for hedgerow translocation between October to end of February. Should works not be completed by March, an ecologist will thoroughly check lengths of hedgerow for nesting birds prior to any preparatory works scheduled to occur throughout this period. Any nest discovered will have a suitable buffer put in place and be clearly marked until an ecologist confirms that chicks have fledged.	Annual management: • any management of the hedgerow should be carried out during the period October-February (inclusive) to avoid disturbance to breeding birds. • if management must occur during the breeding season, an ecologist should be contacted.
3. Root pruning	Root pruning will occur at least 6 months prior to translocation. Root pruning will be completed within 1m from the hedgerow base to stimulate growth of a fibrous network of roots from the cut sections thereby better preparing the roots for uptake of water and nutrients when it is replanted in the receptor site.	No further management required
4. Coppicing	Hedges will be reduced in height to c.100cm, and side growth reduced to stimulate new shoot and root growth once moved.	No further management required
5. Receptor site excavation	<ul style="list-style-type: none"> • The new location of the hedgerow (receptor site) should be at least 750mm from the proposed site boundary (this will need to be marked out with care to ensure correct location). • The receptor site will be prepared in advance of receiving the translocated material by excavating a trench 1.0m deep and 2.0m wide. The excavated soil 	No further management required

	<p>should be piled along the length of the trench so that it is easily accessible for backfilling.</p> <ul style="list-style-type: none"> The base of the trench will be broken with excavator teeth and slow release fertilizer 20:4:10 N:P:K applied at a rate of 50g per metre. Broadleaf P4 water retention granules will also be spread along the base of the trench at a rate of 30g per metre length. 	
6. Translocation	<p>Under supervision of an experienced ecologist/horticulturalist:</p> <ul style="list-style-type: none"> Sections of the hedgerow will be dug and transferred to the receptor site in sequence. A chainsaw operative will be available to cut roots or stems rather than breaking them with the excavator. The hedgerow will then be excavated to a depth of c.1.0m and a width as wide as the bucket is able to accommodate to allow it to be lifted complete along with as much of the intact soil profile and ground flora as possible to maximise the volume of rooting material being translocated. Excavated section will either be transported in the bucket of the excavator used to remove length (or if required upon a trailer suitable to securely transport multiple sections). Roots must be exposed for as short a time as possible – no longer than one hour – and must never dry out completely. If a trailer is used to transport sections, the roots should be wrapped in water-soaked coir matting to prevent drying (unless completed during a period of lighter wet weather- in which case this might not be necessary). New hedgerow planting of whips will be incorporated within the translocated hedgerow using species suitable to the site. Topsoil from the original hedge will be used around the translocated sections. Subsoils either won from the donor site or receptor site to be used to recreate small hedgebanks. 	<p>Annual management:</p> <ul style="list-style-type: none"> the translocated hedgerow will need to be watered periodically during the first summer – particularly during prolonged periods of dry weather – to promote root development and maximise the chances of successful establishment.
7. Making good	<ul style="list-style-type: none"> An experienced ecologist/horticulturalist must check the translocated hedge to ensure it is sitting at the correct depth and there is sufficient topsoil around the roots. This must be undertaken during the translocation. Exposed roots will be buried and firmed by operatives. A small excavator must be available to facilitate this. On completion the hedge will be heavily watered to ensure topsoil is washed in to fill any voids. Ground flora will be left to regenerate naturally from the translocated hedgerow. 	<p>No further management required.</p>

Conclusions

- 3.16 In conclusion, the hedge does not qualify as an important hedge under the Hedgerow Regulations 1997 but it is considered a Habitat of Principal importance (Section 41, NERC 2006) as it contains more than 80% native species.
- 3.17 In order to facilitate residential development through the accommodation of highways requirements, the hedge cannot feasibly be retained in its original alignment. Given that it has nature conservation value, it is preferable to seek to translocate the hedgerow rather than either losing it or replant a new hedgerow in compensation. By translocating this hedgerow:
- mature ecological resources can be retained on the site;
 - ecological resources for new habitat creation schemes will be more rapidly generated;
 - provision is more rapidly made for ecological function, structure & habitat diversity than habitat creation alone using seeds or nursery materials;
 - the retained hedge line will be able to contribute visually in a similar way to the original; and
 - native species of local provenance would be maintained and not lost, thereby relying less on the importation of additional nursery stock to create a new hedge.
- 3.18 The proposed methodology outlined in the report has been used routinely by FPCR and its clients over the last 30 years to successfully translocate valuable hedges that cannot feasibly be retained in their original alignments (e.g. Appendix A); it is a tried and tested approach used to successfully mitigate development impacts.
- 3.19 In light of the findings of the report and the methodology to be implemented, it is our professional opinion that the hedge can reasonably be translocated and therefore impacts to this hedgerow does not warrant a reason to refuse the planning application.

**APPENDIX A - HEDGE TRANSLOCATION IMAGES TO ILLUSTRATE
METHODOLOGY**

Appendix A
 Hedgerow Translocation
 Images to Illustrate Methodology

1. Preparation of hedge base season before translocation. Trenching works. Site near Northampton

2 & 3. Coppicing lengths of hedge line. Site near Road, Northampton

4. Using a root saw to cut lengths of hedge prior to excavation. The same equipment can be used to sever any laterally extending roots in the first season for the purposes of preparing the hedge and help stimulate fine root growth.



1



2



3



4

Appendix A
 Hedgerow Translocation
 Images to Illustrate Methodology

5. Using a flatbed trailer or similar (depending on distances and conditions) to move larger volumes of excavated plant material and soil. Otherwise, material can be transferred directly in the bucket of the excavator.



5

6. Close up of hedge portion prepared for excavator.



6

7. Specially constructed bucket attachment to facilitate hedge excavation (helpful for longer lengths of hedges and time critical works but not absolutely essential).



7

8. Preparing a hedge for translocation in Derbyshire



8

9. Bedding in post translocation site in Derbyshire

10. Bedding in post translocation Site near Northampton. Example of double hedge recreation.

11. Placement of translocated root balls into prepared receptor trenches. Example of double hedge recreation



9



11



10

12. Completed translocation one of a number of hedges completed for site near Northampton. Example of double hedge recreation

13. Completed Hedge translocation. Site in Leicestershire location along a footpath on edge of development site.

14. Same hedge showing regrowth after approximately 3 seasons.



12



13



14

15. Hedegline after approximately 1 season of regrowth post translocation site in Derbyshire



15

16. First season of regrowth translocated hedge in Derbyshire



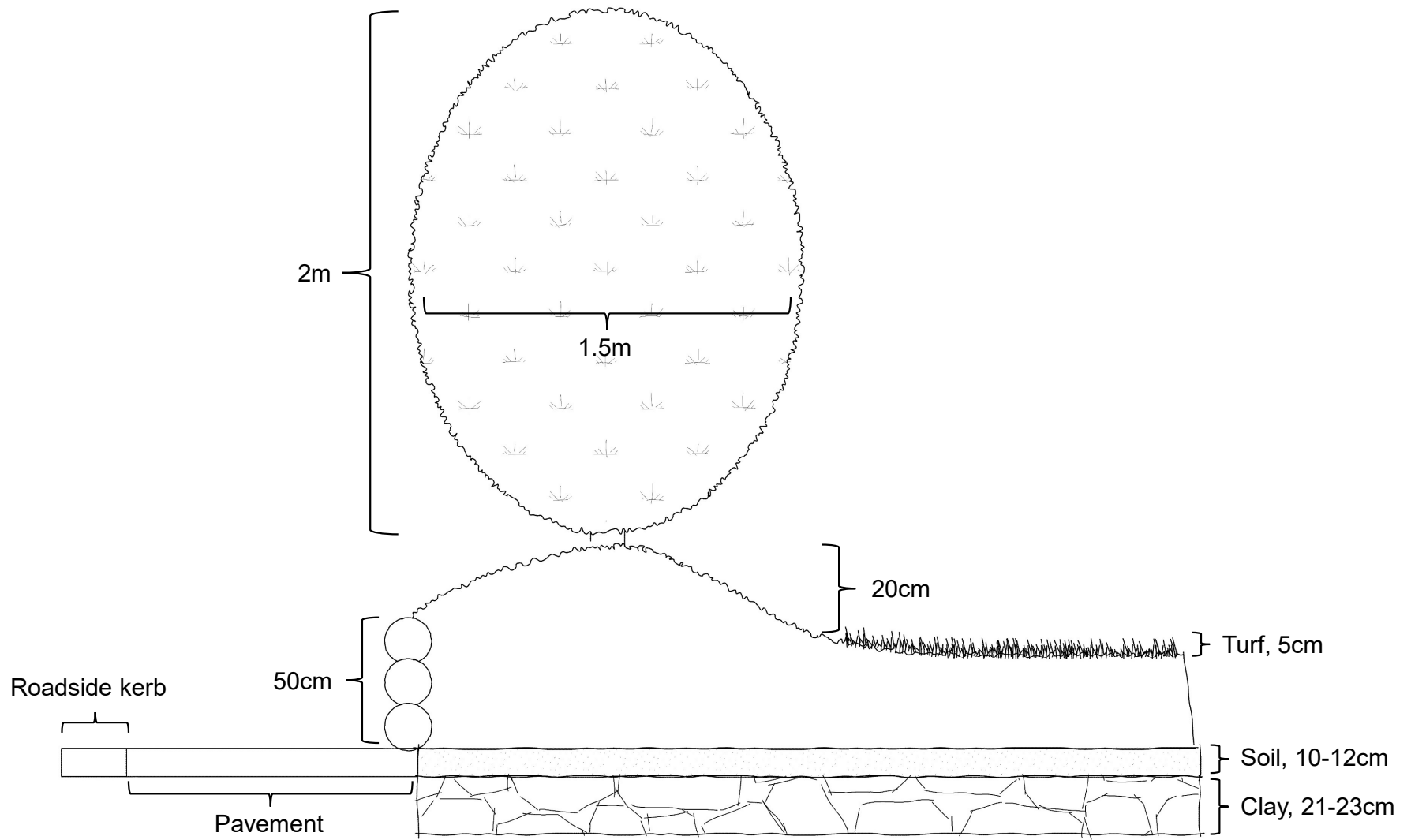
16

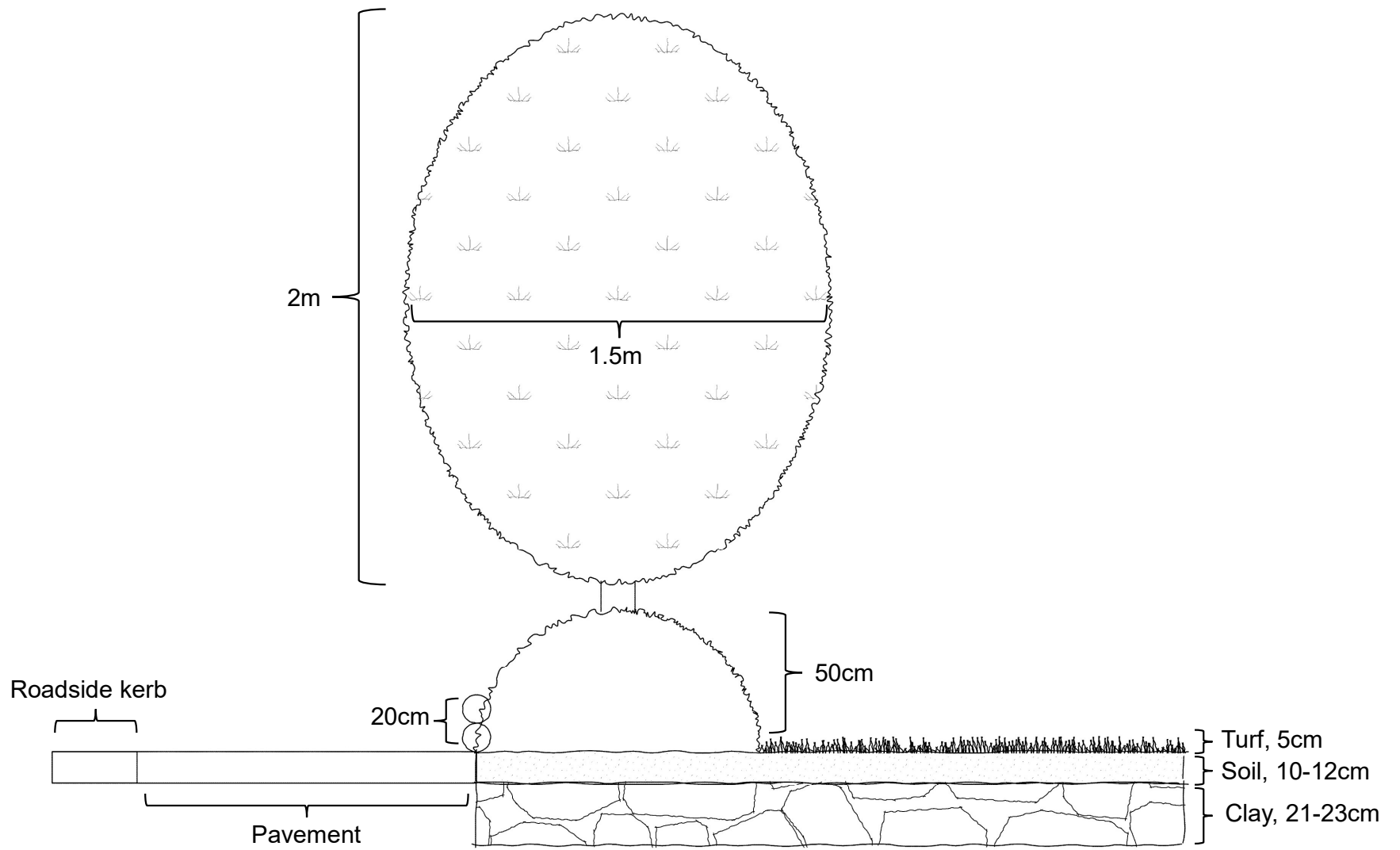
17. Post Translocation Hedge in Derbyshire after 3 seasons.



17

**APPENDIX B - SKETCHES OF THE CROSS-SECTION OF HEDGE AT ITS
WESTERN AND EASTERN ENDS**





Planning Ref: NYM/2021/0351/OU
Appeal Reference



SIW Properties

Lands West of Highfields, Sled Gates, Fylingthorpe

ECOLOGY & NATURE CONSERVATION APPEAL STATEMENT

by Dr Suzanne Mansfield BSc Hons, Ph.D., MCIEEM, CMLI

17 June 2022

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH
Company No. 07128076. [

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APPENDIX 1: ECOLOGICAL APPRAISAL MARCH 2022

1.0 INTRODUCTION

Qualifications

- 1.1 My name is Dr Suzanne Mary Mansfield. I hold a Bachelor of Science with Honours Degree in Botany (specialising in Ecology and Ecophysiology) and a Ph.D. in Ecology & Toxicology. I am a Full Member of the Chartered Institute of Ecologists and Environmental Managers and a Chartered Member of the Landscape Institute (Landscape Science Division).
- 1.2 I am the Senior Ecology Director of FPCR Environment & Design Ltd and have over 30 years' experience as a professional ecologist, the majority of which has been spent in consultancy dealing with all aspects of ecology and nature conservation in support of planning applications for a wide range of projects including residential development. I have been involved in all aspects of project management from surveys, site selection, constraints analysis, mitigation to minimise environmental impacts, detailed design, and monitoring. I am responsible for a team of 89 ecologists and 9 Arboriculturalists over 4 offices with a diverse skills base covering all aspects of ecology and arboriculture.
- 1.3 We have acted as a consultant to government bodies such as Natural England, DEFRA, English Heritage, and the Environment Agency. FPCR also acts as consultant to many local authorities across the United Kingdom.
- 1.4 We were initially appointed on 29th November 2021 to review matters in relation to the proposed mitigation requirements for the planned removal of a hedge in connection with the application. We have subsequently reviewed matters raised in relation to ecology and nature conservation for the purposes of this Appeal.
- 1.5 The Statement which I have prepared and provide for this appeal is true and has been prepared and given in accordance with guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

Scope of Statement and Structure

- 1.6 This Statement has been prepared for SIW Properties, the appellant, I have considered the reasons for refusal as these relate to ecology and nature conservation matters and the Delegated Decision Report including the Officers comments and conclusions (Delegated Decision Report dated 12.01.22. Page 11 & 12 Material Considerations). I have reviewed the submitted application documents including material prepared by other ecologists appointed by the Appellant to review the hedge previously, correspondence by Elspeth Ingleby Ecologist North York Moors National Park Authority, and information provided by 3rd parties objecting to the scheme, including but not limited to those submitted by Dr T Reed C/O The Pond House, Sledgates, where these related to the site's hedges.
- 1.7 I have drawn on the submitted ecological supporting information in producing my statement and subsequent to the decision by the LPA to refuse the Application, a separate whole site review conducted by FPCR Environment & Design (FPCR).
- 1.8 I will also consider the likely extent of any harm and the ecological benefits associated with the proposals.

The Appeal Proposal & Grounds for Refusal

- 1.9 The application was validated 04 May 2021 by the North York Moors National Park Authority, in respect of an outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale) at Land west of Highfield, Sled Gates, Fylingthorpe. The application was refused permission (Decision No. NYM/2021/0351/OU) with two stated reasons for refusal, the second of which is concerned principally with the retention and enhancement of a roadside hedge.

RfR2 "The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments"

- 1.10 This Statement accompanies the main Appeal Statement (Alistair Flatman Planning) and should be read in conjunction with this and provides a detailed and evidence-based analysis with respect to matters relating to hedge loss as raised by RfR2 in the Decision Notice for refusal of the Application.

Site and Area Description

- 1.11 The Appeal site extends to 0.2 hectares of sheep grazed pasture to the south of Sled Gates and west of the residential area of Fylingthorpe, (an indicative site layout is shown in the Planning and Highways Statement Figure 1). The front of the site is bordered by a low stonewall which is topped by a hedgerow (H1 Figure 1 Habitat Plan). There are two further hedgerows lying on site boundaries to the east and west (H2 & H3). The site currently is part of an agricultural field compartment managed as grazed pasture.

Planning Background

- 1.12 There have been previous applications for 2-6 dwellings which have been refused on matters principally concerned with loss of character and appearance, highways, and local plan policy changes unrelated to ecology.
- 1.13 This application is in outline form and seeks permission for construction of up to 5 no. principal residence dwellings with associated access via a proposed new T Junction off Sled Gates to the north (matters reserved: appearance, landscaping, layout, and scale (planning reference NYM/2021/0351/OU).

LPA Response

- 1.14 The Delegated Decision Report prepared by North Yorkshire Moors Park Authority noted that the proposed visibility splays as drawn would affect a Victorian era hedge line. It was stated that the hedge should be protected and subject to a final botanical survey, may well come under the 1997 Hedgerow Regulations for protection as well. The LPA also stated that it was not one fence line that was affected as the sight lines rely on neighbours being willing or to cut their fences down and might be breaking the law as these are agricultural hedges. The response by Ged Lyth of North York County Council Highways Department Note to Planning Officer of 13 December 2021

constituting the substance of the Highways reason for refusal, refers to hedges rather than fences. However, the Planning Officer and author of the Decision Notice refers to fences but is likely also to be referring to hedges. The concern expressed is not only with regards to loss of sections of the frontage hedge but also the highways proposals being reliant in part on maintenance of existing hedges.

- 1.15 The LPA also indicates in its Decision Notice that the application ignores biodiversity interests or possible net gains (required by the NYMNP Local Plan 2020 and the 2019 NPPF) as there are no desk or field surveys. It ignores the relevant sections of the 2020 NYMNP Local Plan and the Supplementary Planning Document 3. It was also indicated that the Parish Council objection to the application was based on all the above issues.

Parish Council

- 1.16 The Parish Council assert there is no basis for unquantified claims of net gain on hedge removal and shrub planting nor in its opinion can replacement shrub planting adequately replace existing hedge flora. The Parish Council maintain that the application is not supported by any ecological (biodiversity) information that NYMNP can evaluate the effects of development.
- 1.17 The Parish Council also believe that as the survey of the hedge did not include survey of earlier or later emerging plant species it could have underrepresented the evaluation of the hedges value.

Third Party Comments in Relation to Appeal Scheme

- 1.18 I have reviewed all the third-party comments and objections in so far as they are relevant to ecology and summarise them briefly below. Comments are listed in the Delegated Decision and primarily concerned with:
- The loss of a hedge of 1997 Hedgerow Regulations standard hedge and field biodiversity. Hedge meets criteria as important as it has a bank or wall supporting it, less than 10% gaps and more than 3 woodland species
 - Scant regard to the protection and enhancement of biodiversity features, with loss of 90m of ancient hedge and associated stone wall
 - Presumption in the National Park for retention of ancient hedges and pathways
 - Loss of wildlife present in the field. Bats that roost there fly over the field and barn owls have been seen hunting. Many species of bird use the hedge and bullfinch (a declining species) observed also using boundary hedges, and badgers observed crossing road from field and deer also observed in field. Field itself is of high ecological value, and the land low intensity agricultural land grazed by sheep and as such host a diverse range of species that include the ones listed above but also foxes, and birds of prey including buzzards and multiple species of owl regularly seen hunting the area.
 - The site and land adjacent are quite marshy and as such is home to frogs, toads, newts etc. The site is almost certainly home to protected and priority species and likewise are extremely important habitats and it is imperative that full surveys are carried out.
- 1.19 In addition to the above more general concerns more detailed representations have been made regarding the ecological value of the hedge line fronting the Appeal site. These are summarised below:

Mr Bob McGovern (30.12.21), Mr John Collinson (02.12.21) & Dr Tim Reed 08.12.21) with comments of a similar nature

- 1.20 For clarity the concerns expressed by Mr McGovern & Mr Collinson in relation to visibility splays are dealt with by the Appellants Highways Witness Mr Andy Moseley of AMAPT. I (and my team at FPCR) consider issues in relation to ecology and biodiversity only. Comments in relation to highways have also been dealt with by the Appellants Highway Witness). With regard to direct impacts on the hedge, Mr McGovern expressed concerns about any break in the continuity of the hedge and wall, and in the likely survival rate of species and that a line of planted shrubs is not in any way, equivalent to the loss of a high value hedge meeting 1997 Regulations.
- 1.21 Mr McGovern maintained the appellant has not identified the true impact on the hedge and its diverse ground flora. Nor has the applicant ever supplied biodiversity data for NYMNP evaluation, and NYMNP did not meet its own Planning Advice Note 2, having made its decisions without this information, and should have considered a proper biodiversity baseline in line form of a 2022 survey consistent with its own Advisory notes.
- 1.22 Dr Tim Reed C/O The Pond House Sledgates in his email of 08 December 2021 10:13 to Hilary Saunders Planning Officer on the additional material provided by the applicant reiterated his earlier objections on biodiversity grounds (made in July 2021). His objection are similar in nature to Mr McGovern's (outlined above), that unverifiable claims were made regarding impacts to the front hedge; a hedge that exceeded 1997 Hedgerow Regulations criteria, and for which he had personally collected plant species data on 3 occasions across a summer, that a single data sample in his opinion would be inappropriate for validation of 1997 status; that the NYMNP needed to instead use a full list of both shrubs and ground flora available. It will also require clearance of a lightly grazed damp agricultural field that may well have botanical interest: thus, in his opinion use of the precautionary principle would have been appropriate here, and for NYMNPA to request the ecological survey (referring to NYMNPA Planning Advice Note 2).

2.0 ECOLOGICAL EVALUATION

Previous site evaluation

- 2.1 Previous site evaluation had focussed on the site hedgerows which have included separate assessments by the Appellants ecologists Middleton Bell Ecology, surveys provided by the NYMNP and third parties conducting their own surveys. This led to a lack of consensus over whether the hedges met criteria for Important hedges under the Regulations 1997.
- 2.2 In addition, comments have been made concerning an apparent lack of general ecological information backed up by site surveys. Third party objectors have provided anecdotal information over the use of the site by faunal species some of which are protected.

Middleton Bell Hedge Survey 21st June 2021 and assessment conducted by Dr Tim Reed C/O The Pond House

- 2.3 The hedgerow (H1) is described and defined in the Hedgerow Assessment Letter Report produced by Middleton Bell Ecology (MBE) on the 22nd June 2021, as being a native species rich hedgerow, with no gaps present atop a small hedge bank and wall. Former laying/coppicing was evident, and the hedgerow had a good structure with no/little vertical gaps from the base. The hedge appeared to have been recently managed.

- 2.4 The hedge was also surveyed on two occasions in 2003 and on one occasion c.2005 with survey data supplied by Elsbeth Ingleby, an ecologist with the NYMNP. This information was also included in the assessment completed by MBE. MBE concluded that the hedge did not meet criteria as an important hedge as insufficient species were found during survey.
- 2.5 The extended hedge survey completed by Dr Tim Reed (para 1.22 of this statement) submitted as part of his objection found more woody species following several visits that he made in 2021. Dr Reed concluded that the hedgerow qualified as Important under the Hedgerow Regulations 1997 on the basis of 5 (6 species minus 1 for hedges in N Yorkshire) confirmed woody species and 3 associated qualifying features.

Ecological Surveys conducted by FPCR in 2022 to inform the Appeal

- 2.6 A baseline survey was not originally conducted, and it appeared the LPA had been content that with the scale of the development located in part of a grazed pasture there were insufficient features present to trigger the need for a full ecological survey and none appeared to have been requested.
- 2.7 Nevertheless, an Extended Phase 1 Habitat survey including a Preliminary Protected Species survey was completed by FPCR in March 2022 to provide more up-to date information over the ecological value of the Appeal site and in response to 3rd party comments regarding an absence of baseline information (refer Appendix 1: Ecological Appraisal Report, FPCR, March 2022).
- 2.8 In addition to the above survey the hedge line H1 (site frontage) was also the subject of a further assessment under the Hedgerow Regulations 1997.
- 2.9 There are no statutory sites affected by the development of the Appeal site. Beast Cliff-Whitby (Robin Hood's Bay) SAC located 1.2km southeast of the site, this is designated for its vegetated sea cliffs. Given the reason for designation and the distance from the site it is considered unlikely that the development would directly impact it.
- 2.10 The North York Moors National Park, designated as an SPA, SAC and SSSI is located 770 m west of the survey area. Species listed as reasons for the SPA designation comprised of merlin and golden plover, both of which are for breeding only. As breeding habitat for these species are not present on site it is considered unlikely that the development would impact these species. It is estimated that around 8 million people visit the North York Moors every year. Given the low numbers of properties proposed for the site and the high visitor numbers in the area, the increase from human activity will not be significant.
- 2.11 There were no non-statutory sites within 2km search area.
- 2.12 The field which comprised the site consisted of poor semi-improved grassland was of low nature conservation value (due to limited species diversity) with no rare or notable plant species identified.

Hedgerow Regulations 1997

- 2.13 Given the variation in earlier conclusions over the quality of H1 the hedge was subject to a further independent review (by FPCR) under the Hedgerow Regulations 1997. For further information relating to the planning and legislative context of the Regulations refer to Section 4.0 of this statement, matters relevant to ecological survey and assessment are considered below. This mechanism offers some protection for hedgerows of more than 20 metres in length or which join other hedgerows provided they adjoin agricultural land, forestry, paddocks, common land, village

greens, a site of special scientific interest or a local nature reserve. In order to remove such a hedgerow an owner must serve notice on the local planning authority who then decides if it is 'important' and if so, it is whether it should be retained. A hedgerow is 'important' if it has existed for 30 years or more and it meets any one of the criteria set out in Part II of Schedule 1 the Regulations. Evaluation consists of both an onsite survey largely to establish the landscape and ecological and reference to appropriate documentation largely to establish historical value.

- 2.14 Sections 6.10-6.15 of the DEFRA 1997 The Hedgerow Regulations 1997: A Guide to the Law and Good Practice provides further details on survey requirements with a requirement that surveys are completed by suitable qualified individuals with botanical expertise. This guide does not include guidance on survey timings nor frequency, decisions in that respect are left to experienced surveyors.

FPCR Hedge Survey & review

- 2.15 This survey of the sites hedges was completed in March 2022 by suitable experienced ecologists in order to be able to observe and record earlier spring flowering plants. Our subsequent survey confirmed that Hedgerow 1 does meet the minimum criteria as important under Schedule 1 part II of The Hedgerow Regulations 1997. Its protection comes from paragraph 7 (b) at least 6 woody species and at least 3 of the features specified in sub-paragraph (4). Due to the location of the hedgerow within North Yorkshire the number of species needed to meet this criterion is reduced by 1 (therefore 5 woody species are required for hedges in N. Yorkshire). We recorded five species on the woody species list recorded within a 30m section. The associated features included the presence of a wall along the hedgerow, no gaps, and the presence of greater than 3 woodland species on schedule 2 of the Act. Those present during the survey comprised barren strawberry *Potentilla sterilis*, hart's-tongue *Asplenium scolopendrium* herb Robert *Geranium robertianum*, lords-and-ladies *Arum maculatum*, male-fern *Dryopteris filix-mas*, pignut *Conopodium majus*, primrose *Primula vulgaris*, soft shield-fern *Polystichum setiferum*, and wood avens *Geum urbanum*.
- 2.16 The hedge is not ancient but appears to be Victorian. The LPA (Officers Delegated Report) has suggested that the boundary has been in existence prior to 1845 though it is unclear whether there was a hedge or a fence. The matter of age was considered by the LPA ecologist noted that "as any qualifying features for the archaeological, historical or landscape criteria must relate to records predating 1997, these cannot have changed since the hedgerow was previously assessed by colleagues for a previous application on the site. There was not found to be the features necessary to meet the criteria under these values and I will therefore not go into these further here". The value of the hedge as far as the 1997 Regulations is concerned, reflects its qualifying features under ecological criteria.
- 2.17 Hedgerow 2 was located off site; due to a lack of associated features it does not meet the criteria as it was not considered important under the Hedgerow Regulations 1997. However due to the high proportion of native species it is a habitat of principal importance. The hedgerow would require protection through the inclusion of barrier fencing during construction and included sympathetically into site design.
- 2.18 Hedge 3 is a domestic boundary hedge (belonging to the adjacent property of Fylingdales) comprising mostly of garden privet with some beech separated from the site by a chain link fence, as such not the subject of further assessment.

- 2.19 In addition, under the habitat descriptions for Hedgerow Habitat of Principal Importance as listed within Section 41 of the NERC Act, the hedges H1 & H2 consist of 80% or more native species and therefore qualifies as HPI.

Bats

- 2.20 No records of bats were returned from NEYEDC for within the site. There were no trees or structures which provide potential roosting opportunities for bats. The hedgerows on and adjacent to the site are likely to provide some foraging and commuting habitat for any species present in the local area.

Birds

- 2.21 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Several species of wild birds are also listed on Schedule 1 of the Act which provides protection for the species at all times. A single record for black redstart a schedule 1 species was returned from 970m east of the site in 2013. Swifts are frequently recorded in the area. Habitats on site are not suitable nesting habitats for either species. Additional bird species have been listed by 3rd parties, including bullfinch and barn owl seen in the former case using the onsite hedges and in the latter case hunting locally across fields.
- 2.22 Bullfinch (UK Conservation status Amber Protected in the UK under the Wildlife and Countryside Act, 1981. Priority Species under the UK Post-2010 Biodiversity Framework) occur in woodland, but can also be found in hedgerows, scrubby areas and parks and gardens provided there are trees to feed on and dense vegetation to nest in. Given the sites location adjacent to open farmland and nearby woodland (associated with Thorpe Beck in the north) these are considered likely to be using the wider area that includes the site and hedges for foraging (nesting habitat is considered more limited given the extent of management and presence of alternative better-quality habitats nearby). Presence of bullfinch in the wider area with anecdotal sightings on site does not therefore infer greater value and given hedges are part of habitat mitigation proposals would be a matter of addressing conservation needs at this point with proposals readily able to accommodate this species.
- 2.23 Barn owls (UK Conservation Status Green. Protected in the UK under the W&CA 1981 under Schedule 1)) are widespread across the UK and prefer open countryside and farmland. Sightings are consistent with birds utilising open farmland to the south of the site. The site itself supporting closer grazed pasture grassland with a lack of suitable cover will limit the potential for small mammals in particular rodents such as voles & shrews on which the species relies. Better quality feeding habitat is present locally.

Great crested newts

- 2.25 Consultation with the local records centre returned no records of GCN from within the 1km search area.
- 2.26 The poor semi-improved grassland provides sub-optimal terrestrial habitat for great crested newts in their terrestrial phase. Hibernation potential is present in the base of the hedgerow and wall, however, there is no breeding habitat present on site.
- 2.27 The pond closest to the site and the pond 300m north were both surveyed as part of the Natural England eDNA survey undertaken for district licensing in 2019. Both ponds were negative for GCN eDNA.
- 2.28 As such it is considered that GCN do not pose a statutory constraint to the development of the Site.
- 2.29 Habitats on site were considered sub-optimal due to their homogenous nature and lack of suitable structure. No records were returned for within 1 km of the site therefore it is considered that reptile species do not pose a statutory constraint to development.

Overall Conclusions Site Ecological Value

- 2.30 The assessment confirmed the site to have limited overall nature conservation value with no protected or priority faunal species wholly reliant on the site.
- 2.31 The sites hedges have greater value, H1 is important under the Hedgerow Regulation 1997, and along with H2 are hedgerow Habitats of Principal Importance under Section 41 of the NERC Act.

3.0 EFFECTS OF APPEAL PROPOSALS

- 3.1 No statutory or non-statutory site would be affected by proposals. Given the low numbers of properties proposed for the site and the high visitor numbers in the North York Moors National Park (SAC, SPA, SSSI) area, the increase from human activity is not considered to be significant.
- 3.2 Representations were also made by 3rd party objectors with regard to the lack of ecological supporting information, reliance on out-of-date survey information, and the validity of surveys provided in support of the application. Botanical and preliminary protected species surveys completed in March 2022 have confirmed that the site overall has limited nature conservation value with no protected or priority faunal species present that was wholly reliant on the site.
- 3.3 Poor semi-improved pasture representing low value grassland habitat will be lost.
- 3.4 H2 will be retained. H1 will also be retained but will need to be translocated further into the site for highways reasons, to improve site access for housing, the need for which is outlined in the Planning Statement (refer also to mitigation proposals and also Section 4 of this Statement which considers the planning and legislative context of proposals to translocate H1).

Mitigation

- 3.5 The assessment confirmed the site to have limited overall nature conservation value with no protected or priority faunal species wholly reliant on the site. General measures to enhance wildlife habitats as part of development proposals would be sufficient to address impacts.
- 3.6 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Site clearance works would need to be completed prior to or after March-August inclusive or a pre commencement check carried out by a suitable experienced ecologist.
- 3.7 Whilst the effects of the Appeal proposals on habitats and local wildlife is limited overall the proposals have nevertheless included mitigation as follows:
- Native species to be included within the landscape planting proposals for the site along with additional habitat features including new hedge and tree planting.
 - To enhance roosting opportunities for bats within the site artificial bat bricks to be included within new properties on site (positioned > 4 m from ground level on the eastern, southern, or western gable walls of the dwellings away from artificial lighting).
 - Artificial lighting on the site in accordance with current Bat Conservation Trust guidance with no artificial lighting being directed onto areas of retained/existing connective habitat around the edges of the site to support a continuation of foraging and commuting by bats using the local area.
 - Provision for nesting birds (e.g., house sparrow, swift and house martin) would be included within the site; ideally as permanent features built into selected dwellings and or garages (Schwegler No. 17B) and house sparrow (Schwegler No. 1SP)).
- 3.8 All retained hedges will be managed with nature conservation in mind. The development proposals also include the planting of a new native species hedge to define the southern site boundary and to provide net gain (for considerations regarding the planning and legislative context for biodiversity net gain (BNG) refer to Section 4.0 of this Statement). Species should include if feasible those of local providence and be appropriate to the location (see Section 3.3 of Method statement for native tree and shrub species). Again, planting will include tree species such as oak and ash which will be allowed to develop into standards to create structure as well as increasing diversity.

Hedge translocation FPCR expertise and experience

- 3.9 As the hedge H1 cannot be retained in its current alignment it is proposed to translocate the entire affected length further into the site. A hedgerow translocation method statement has been prepared and submitted to support the application (Hedgerow Translocation Method Statement, FPCR, 2021. Copy submitted with Appeal papers). The document was prepared to assess the state of the hedge, the physical factors that might affect the feasibility of extracting the hedge from its current alignment, methods of translocation, the key elements that should be considered to ensure successful translocation and to demonstrate the expertise of FPCR to complete this work.
- 3.10 FPCR are a multi-disciplinary practice who offer a complete ecological service covering a range of disciplines, we have over 50 years of experience of providing ecological and arboricultural advice.

During this time, we have worked on many habitat translocations and large-scale habitat re-creation schemes. I have also been directly involved in a number of these. Habitat translocation has involved, wetland, grassland, individual trees, scrub, and hedges. We have also completed specialist translocations involving habitats on more complex sites such as those developed on pulverised fuel ash containing orchid assemblages.

- 3.11 Examples of work we have conducted or have been directly involved in where hedgerow translocation was required included numerous larger scale developments from minerals to infrastructure projects. Working alongside a specialist contractor we have successfully translocated hedgerows as part of the Northampton Gateway Rail Freight Interchange for Segro Ltd (A total of 2776m of conservation grade hedges were translocated. For further details refer to submitted Method Statement 2021). In February this year we successfully gained LPA approval for circa 400m of hedge meeting Regulations criteria at Merchant Field Cleckheaton for Harron Homes.
- 3.12 FPCR can therefore demonstrate expertise attained over many decades of being involved in habitat recreation and translocation work for many schemes.
- 3.13 The hedge is considered suitable for translocation, and it is considered that the hedge could be readily relocated further into the site to retain what is a valuable nature conservation resource. By relocating further into the site, the required visibility splays and access works can be completed without constraint and the hedge line can be reconnected not far from its original alignment, reinforced, and managed to enable it to continue to serve as a functional ecological unit.
- 3.14 The final location of the translocation will be along the frontage of the new development and very close to its original alignment. This minimises any issues in relation to extraction, effects of transportation, drying out and any potential damage. Once established the hedge line will look similar to the original. The hedge will be retained albeit aligned further into the development. Original connections will be preserved, and the hedge connected to a proposed new hedge in the southern site boundary.

4.0 PLANNING POLICY CONTEXT, PLANNING CONSIDERATIONS & REASON FOR REFUSAL ON ECOLOGICAL GROUNDS

- 4.1 Matters in relation to planning are dealt with in the Planning Statement of Mr Alistair Flatman. I review relevant policies and guidance in terms of a consideration of ecological matters.
- 4.2 References were made in the Committee Report under main issues to the local plan adopted July 2020. Strategic Policy A, and ENV1.
- 4.3 Under Strategic Policy A - Achieving National Park Purposes and Sustainable Development Within the North York Moors National Park, it is stated that a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes: 1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park.
- 4.4 Under Policy ENV1 of the Local Plan Trees, Woodlands, Traditional Orchards, & Hedgerows it is stated there will be a presumption in favour of the retention and enhancement of existing trees, woodlands, traditional orchards, and hedges of value on all developments. Where the wider sustainability benefits outweigh the loss development proposals will be expected to minimise harm

and provide a net biodiversity and amenity gain with appropriate replacement of trees or hedgerows.

- 4.5 The LPA have commented that the following matters of an ecological nature have been material considerations:
- 4.6 In previous applications evidence suggested that the hedge was in place prior to 1845 (albeit there were discrepancies as to whether there was a fence or hedge) the presence of this boundary prior to 1845 makes it historically significant. In view of this the LPA have concluded that it is not previously been considered desirable to lose this boundary. This appears to be at odds to the comments of the LPA's ecologist in her email of the 18th June 2021, which stated that previous surveys did not find criteria meeting archaeological, historical or landscape criteria (under the Hedgerow Regulations 1997).
- 4.7 The LPA's ecologist has stated that based on current information the hedge is considered to be worthy of retention under the Hedgerow Regulations. However, the ecologist also acknowledged that its removal could still also be authorised by an approved planning application as the legislation overrides the Regulations, but this should be considered in the planning balance. The ecologist also acknowledged that all hedgerows containing native woody species are considered priority habitats, but this did not give them firm legal protection, but it did mean that as a public body the LPA have a 'due regard' (under the NERC Act 2006) for their importance when undertaking its functions. If consented for removal it would mean that the mitigation and compensation requirements would be higher than for a non-priority habitat to ensure that overall biodiversity loss is not permitted.

REASON FOR REFUSAL

- 4.8 NYMNP have refused the outline for 5 dwellings. Reason for Refusal 2 stated that "*the existing roadside hedge classifies as being a habitat of importance (under the NERC Act) and therefore its removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in strategic Policy A and Policy ENV1 of the NYM Local Plan that state there is a presumption in favour of the retention and enhancement of existing hedgerow of value on all developments*"
- 4.9 The justification for RfR2 is based on the LPA's perception of the likelihood of habitat loss which it is stated would be contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan., These policies establish a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.
- 4.10 The proposals do not result in the loss or removal of any hedge (H2 retained and H1 translocated and realigned) and enhancements are proposed in the form of a new native species hedge with standard trees which will define the southern site boundary. All hedges within the site will be subject to management with biodiversity & nature conservation in mind. A net gain in hedgerow habitat is achieved.
- 4.11 The term remove is defined in Section 97 (8) of the 1997 Hedgerow Regulations as 'uproot or otherwise destroy' It includes acts of deliberate grubbing out and also acts that involve the destruction of the hedgerow. Consideration as to whether the proposed work or other activity would constitute removal will have to be judged according to the circumstances of each individual case. Exemptions include where development has been authorised by planning permission (or has deemed to have been granted). Provision is made in the regulations for hedgerow management

under 'For the proper management of a hedgerow'. Cutting back a hedgerow in a manner that does not result in its destruction is unlikely to constitute removal. Such works are recognised as being outside the scope of the Regulations and does not require LPA notification.

- 4.12 The proposals would require the repositioning of the hedge (H1) to accommodate sight lines. Again, this does not involve the removal of the hedge in the manner which would result in the hedge being lost as it does not involve the destruction of the hedge.
- 4.13 Regardless of where the hedgerow stands under the Regs 1997 (and the hedge only meets the minimum criteria (Section 2.15 of this statement) this is superseded by planning regulations (also made clear by the LPA ecologist in her email of the 22 December 2021 Elsbeth Ingleby to planning officer). It is clear that it is a habitat of importance under the NERC Act 2006, in line with the LPA's statutory purposes the LPA do not wish it to be lost or detrimentally affected by proposals. (Email Elsbeth Ingleby 22 December 2021 to Planning Officer). However, priority habitat has no firm legal protection as the LPA ecologist noted, rather as a public body the LPA have a 'due regard' under the NERC Act 2006. The LPA's ecologist has stated (see Officers Delegated Report) that if consented for removal it would mean that the mitigation and compensation requirements would be higher than for a non-priority habitat to ensure that overall biodiversity loss is not permitted. Comments made have all appeared to be in relation to ensuring no loss off biodiversity. The email of the 7th June 2021 paragraph 2 sets out what the ecologist expected by way of mitigation and compensation including reinstatement, location of new diverse hedgerow planting, timing of removal of existing hedge to avoid breeding birds, and reserve matters requirements for nest boxes.
- 4.14 The extent or level of mitigation/compensation that was expected by the LPA ecologist appears to also be clear in her email of the 18th June 2021 to the planning officer. The last paragraph of the same email suggests that the Ecologist considered that were the hedge to be lost and replaced then details of an appropriate planting mix would be required.
- 4.15 Measures that are proposed go further than replacement planting as advocated by the LPA's Ecologist. By translocating H1, its soils, seed bank, and component shrubs a short distance into the site would be saved. The technique used has been successfully applied by FPCR and its specialist contractors on conservation grade hedges for consented schemes nationally, it has been confirmed that the hedge is capable of being translocated and a method statement has been prepared and submitted to the LPA in support of the application. Post translocation the hedge would be managed, and additional native species will be planted. Existing linkages will be maintained and reinforced in the form of a new native species rich hedge in the south of the site. The pasture grassland on the site has been assessed by survey as of low value. A net gain in hedge habitat will be achieved.
- 4.16 A nest box & bat box scheme will provide additional benefits (and is a proposal that meets the requirement indicated by the LPA's ecologist in her Email 7th June 2021. Swift boxes to be included),

Overview of planning policy context and planning considerations

- 4.17 The proposals therefore accord with the relevant policies of the Local Plan.

5.0 SUMMARY & CONCLUSIONS

- 5.1 The Appeal site is supported by a baseline ecology survey which has identified that the land within the Appeal site is of low value, being largely comprised of low value pasture grassland.
- 5.2 The Appeal site land is not subject to any formal designation.
- 5.3 There are no protected species confirmed as being present and dependent on the site that would require specific measures in mitigation.
- 5.4 Requirements of local fauna, such as bats and birds can be dealt with through scheme design and precautionary best practice measures can be used to avoid any potential harm.
- 5.5 There would also be a landscape scheme secured and other standard measures included in the form of bird and bat boxes and a sensitive lighting scheme for foraging and commuting bats. Measures proposed can also be expected to achieve a betterment as a result of the provision of new nesting and roosting sites and inclusion of native and wildlife friendly landscape planting that includes a new native species rich hedge and reinforcement of the newly realigned and translocated frontage hedge.
- 5.6 At the site level there is low value botanically poor intensively managed habitats of limited value for local fauna. The loss of such habitats therefore must be considered as limited at the site and local level and as such would not result in any cumulative harm on any adjacent habitats.
- 5.7 Given that the frontage hedgerow has nature conservation value it is preferable to seek to translocate the hedgerow rather than lose it or replant a new hedgerow in compensation. By translocating this hedgerow mature ecological resources can be retained on the site. Ecological resources for new habitat creation schemes will be more rapidly generated. Provision is more rapidly made for ecological function, structure & habitat diversity than habitat creation alone using seeds or nursery materials. The retained hedge line will be able to contribute visually in a similar way to the original. Native species of local provenance are maintained and not lost and relies less on the importation of additional nursery stock to create a new hedge.
- 5.8 The methodology for translocating the frontage hedge outlined here is one used routinely by FPCR and its clients over the last 30 years to successfully translocate valuable hedges that cannot feasibly be retained in their original alignments and is a tried and tested method used to successfully mitigate development impacts.
- 5.9 In light of the findings of the report and the methodology to be implemented, it is our professional opinion that the hedge can reasonably be translocated and therefore impacts to this hedgerow does not warrant a reason to refuse the planning application.
- 5.10 It can be clearly demonstrated that there are no adverse biodiversity impacts arising because of the Appeal Site and the mitigation measures and enhancement proposals provide a betterment at a local level.
- 5.11 The site can be developed in accordance with local plan policies relating to ecology and nature conservation.
- 5.12 I therefore conclude that the appeal scheme can be developed without any significant harm to biodiversity interests, and that positive changes would also arise from the scheme.

APPENDIX 1 ECOLOGICAL APPRAISAL MARCH 2022