

Application 22/01878/P by Homes England for:

Application for Outline Planning Permission with some matters reserved -
Development of up to 260 new residential dwellings (Class C3 use)
together with pedestrian, cycle and vehicular access, cycle and car
parking, public open space and associated infrastructure. Approval sought
for access with all other matters reserved.

PLANNING APPEAL

(PINS ref. 3308537)

REBUTTAL PROOF OF EVIDENCE, ECOLOGY

RUPERT HIGGINS

1 Introduction

1.1 This rebuttal responds to parts of the Appellant's proof of evidence and appendices, submitted by Mr Hesketh.

1.2 Bristol City Council are referred to as "BCC" below.

2 Section 3 of Mr Hesketh's Proof

2.1.1 At paragraph 3.2 (page 7) of his proof, Mr Hesketh refers to agreement between the appellant and BCC: *"The Council's Nature Conservation Officer...confirms the ecological surveys carried out for this application are thorough and paint a good picture of the ecological features of the site. There is therefore no challenge to survey quality and an acceptance of TEP's factual and technical assessments."*

2.1.2 The Nature Conservation Officer's statement refers to the scope, methodologies and findings of surveys specifically. No agreement was made that the assessments made in the appellant's ecological impact assessment provided a full evaluation of the site's biodiversity.

2.1.3 Further information regarding the habitats and species present on the appeal site has come to light since this statement was made and has been communicated to Mr Hesketh. This additional information includes the presence of additional veteran trees and differences over species-composition of hedges, as described at paragraph 3.2.4 and appendix 2 of my proof of evidence.

2.2.1 At paragraph 3.13 (pages 8 to 9) of his proof, Mr Hesketh discusses the status of the SNCI designation of the site. I wish to re-iterate that BCC's position has not relied on any contention that the SNCI designation remains in place.

2.2.2 I am in agreement with Mr Hesketh's use of the categorisation of the appeal site as having "medium" strategic significance. I note that the difference in habitat unit lost between calculations based on the two assessments of strategic significance, as summarised by Mr Hesketh at paragraph 3.20, is minor.

2.2.3 My contention with the appellant regarding Biodiversity Net Gain is that the feasibility of achieving sufficient mitigation has not been established, as explained at paragraphs 7.1 to 7.11 of my proof.

2.3.1 At paragraph 3.27 (page 11) of his proof, Mr Hesketh disputes any evaluation of the hedges as being ancient. I wish to clarify that my assessment of the impact associated with the loss of hedges has not relied on any such evaluation.

2.3.2 Likewise, at paragraph 3.28 (page 11) of his proof, Mr Hesketh disputes the presence of artificial banks associated with the hedgerows. Without reaching any conclusion on the origin of these features, I wish to clarify that I have not relied on any evaluation of the origin of the banks.

2.4.1 At paragraph 3.39 (page 13) of his proof Mr Hesketh raises the possibility that it might be possible to specify the retention of important trees by means of planning conditions. This is in conflict with the appellant's contentions that the proposed level of tree and hedgerow loss is an inevitable and unavoidable consequence of the application before the inquiry as described, for instance at paragraphs 6.102 to 6.108 (pages 52 to 54) of Mr Hesketh's proof.

2.5.1 At paragraph 3.46 (page 16) of his proof of evidence Mr Hesketh disputes the appellant's own previous assessment that 74% of the Important Hedgerows on the appeal site would be lost. He does this by including within a revised baseline lengths of hedge and other habitats that the appellants have evaluated in their Ecological Impact Assessment to be of lower importance than the Important Hedgerows. The 74% loss refers to the baseline total of important hedgerows and remains the appropriate measure against which the impacts of the appeal scheme should be assessed.

3 Section 4 of Mr Hesketh's Proof

3.1.1 At paragraphs 4.20 to 4.24 (pages 22 to 23) of his proof Mr Hesketh's contends that "some parts of the appeal site could be added back into the SNCI".

3.1.2 Newly created areas could only be re-incorporated within the SNCI if they support vegetation or other features that meet the criteria for SNCI selection. Successful habitat creation depends on a large number of variables and requires, for example, provision of suitable soil profiles and hydrological regimes. A sensitive management regime, capable of responding to changes in site conditions, must then be implemented over the long term. The creation of habitats of sufficient quality to meet selection criteria over a sustained period of time is rarely achieved by mitigation schemes.

3.1.3 Whilst BCC and the Local Sites Partnership will consider any area, however created, for inclusion within an SNCI there are no examples of comparable mitigation schemes having been designated. Discussion of future inclusion of parts of the appeal site within the SNCI is highly speculative and should not form part of the assessment.

4 Section 5 of Mr Hesketh's Proof

4.1.1 Mr Hesketh, at paragraph 5.25 (page 30) of his proof and in following paragraphs, contends that the mitigation hierarchy has been followed throughout the design of the appeal scheme.

4.1.2 The first stage of the mitigation hierarchy is to avoid impacts. The removal of important hedgerows and trees in order to facilitate, for example, place-making shows that the hierarchy has not been followed.

4.1.3 Suggestions, for example at paragraph 3.39 (page 13), that it is possible to retain important trees or hedgerows identified for removal elsewhere in Mr Hesketh's proof suggest that either avoidance of impacts or mitigation by design is possible. This would have been addressed if the hierarchy had been followed. The parameter plans that are part of the application before this appeal would not allow retention of a significant element of the important hedges and trees; Mr Hesketh's suggestion that this could be secured by condition is not achievable under the current application.

4.2.1 The contention at paragraph 5.41 (page 35) of Mr Hesketh's proof of evidence that "every effort has been made to retain a strong hedgerow

framework on site..." is predicated on the appellant's aspiration to accommodate 260 dwellings on the appeal site. There is no indication that the requirement set out in the site allocation policy to retain important hedgerows and trees has limited this aspiration.

5 Section 6 of Mr Hesketh's Proof

5.1.1 Mr Hesketh discusses, at paragraph 6.60 (page 46) of his proof the application of the Hedgerow Regulations as a method of assessing the importance of the appeal site's hedgerows. My own surveys, summarised at appendix 2 of my proof of evidence, show a higher level of diversity in the hedges than that suggested by the appellant's surveys. As well as showing a higher level of diversity overall, my survey data show that hedge H4 qualifies as an Important Hedgerow under criteria other than the presence of bluebell.

6 Section 7 of Mr Hesketh's Proof

6.1.1 At paragraphs 7.9 to 7.16 (pages 60 to 61) of his proof, Mr Hesketh proposes that offsite mitigation be dealt with in reserved matters applications as each phase of the development comes forward.

6.1.2 In my experience it is usual for an outline application to at least establish the principal that mitigation, including but not limited to satisfying the requirements of Biodiversity Net Gain, can be delivered.

6.1.3 The applicant relies, for example at paragraph 7.14, on enhancement of land within and surrounding Victory Park for the delivery of Biodiversity Net Gain. I agree that there is some potential for enhancement of some of these areas. Much of the land surrounding the park is, however, of existing biodiversity value as recognised by its designation as part of the SNCI.

6.1.4 Mr Hesketh, at paragraph 7.7 (page 59) of his proof of evidence lists minimum requirements for off-site Biodiversity Net Gain. These include figures of 14.61 units to achieve mitigation of grassland loss and 8.37 units to achieve mitigation of scrub loss. These are broadly in line with the figures I identify at paragraph 7.8 (pages 19 to 20) of my proof of evidence; in order to avoid unnecessary dispute I will use Mr Hesketh's figures here.

6.15 I have considered the potential of Victoria Park and surrounding land for enhancement, as set out at paragraph 7.9 (page 20) of my proof of evidence. It would be possible to enhance the condition of much of the

land identified at Appendix 6 of my proof as semi-improved grassland. However, in terms of the BNG metric, it would not be possible to change the grassland type here. Enhancement of this type would be feasible over a maximum of 2.85 hectares across the identified sites. An enhancement of condition from moderate to fairly good over the whole of this area would deliver a gain of 8.35 units.

6.16 The area I have identified at Appendix 6 that is suitable for more fundamental enhancement work totals 0.49 hectares, taking into account the need to protect the root zones of important trees. The conversion of this area from modified grassland to other neutral grassland would deliver a gain of 2.21 units.

6.17 Enhancement at this level would be beneficial, but the two measures outlined at 6.15 and 6.16 provide a total gain of 10.56 units, compared to a requirement for 14.61 units to mitigate for the loss of grassland alone. Mitigation to meet off-site requirements for other habitat types would in addition require approximately 2 hectares, assuming that the baseline habitat type of the mitigation sites is modified grasslands. The issues I raise at paragraphs 7.8 to 7.11 of my proof therefore remain valid.