



**Draft Statement of Common Ground on behalf
of the Appellant, BCL (Maple Cross) LLP with
Hertfordshire Ecology**

**Employment Land to the north of Maple Cross Lodge,
Maple Cross, Rickmansworth**

Appeal against the non-determination of planning application Ref.
21/0573/FUL

February 2022

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1. Introduction

1.1 This draft Statement of Common Ground (SOCG) has been prepared by Avison Young on behalf of BCL (Maple Cross) LLP (the Appellant) and Hertfordshire Ecology (HE) in connection with appeal reference APP/P1940/W/21/3289305 (the Appeal) against the non-determination of planning application ref. 21/0573/FUL (the Application) for the proposed employment development at Employment Land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth, (the Site).

1.2 The description of development for the Application is as follows:

“Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works.”

1.3 The Application was submitted to Three Rivers District Council (TRDC) (the Council), as the Local Planning Authority (LPA), on 5th March 2021. The Council validated the Application on 5th March 2021. The statutory determination period was due to expire on 4th June 2021; however, the Appellant and the Council subsequently agreed to multiple extensions of time until 29th October 2021.

1.4 The Application was taken to Planning Committee on 21st October 2021 with a recommendation for approval. Members resolved to defer the application against officer’s recommendation. The approved minutes cite the reason for the deferral being:

“for the Council to instruct their own expert hydrologist or similar to review the application on the grounds that Members are not satisfied that the risks of development to the Maple Lodge Nature Reserve had been fully understood and the suggested conditions would meet the requirements.”

1.5 The Appellant wrote to the Council on 26th October 2021 offering a further extension of time until 19th November 2021.

1.6 An appeal was therefore lodged on the basis that the Council had not determined the Application within this agreed period and no further extension of time had been agreed.

1.7 The Appeal was validated on 20th January 2022 and an Inquiry is due to open on at 10.00am on Tuesday 26 April 2022.

Statement Purpose and Structure

1.8 The purpose of this Statement is to set out the position agreed between the Appellant and the HE about the appeal in to assist and focus discussion at the Inquiry.

1.9 This Statement is structured as follows:

- **Section 2** outlines HE's statutory duties in relation to the Appeal Scheme;
- **Section 3** sets out the factual elements of the Appeal Scheme that are not in dispute; and
- **Section 4** provides a signed declaration that both the Appellant and HE are in agreement with this Statement.

2. Hertfordshire Ecology's Statutory Duties

- 2.1 This section outlines HE's statutory duties in relation to the Appeal Scheme.
 - 2.2 The Planning Practice Guidance sets out a list of statutory requirements to consult particular bodies or persons on applications for planning permission in prescribed circumstances (Paragraph: 009 Reference ID: 15-009-20190722, Table 2). HE is not included as a statutory consultee in this respect.
 - 2.3 The Council's Statement of Community Involvement (SCI) provides a list of further bodies it considers appropriate to consult including Hertfordshire County Council.
 - 2.4 HE provides specialist ecological advice to support the planning process. HE is a shared service supported and funded by eight Hertfordshire Local Planning Authorities, including TRDC.
 - 2.5 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 9 of the Conservation of Habitat and Species Regulations 2017 (as amended) which states that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
 - 2.6 It is agreed that the LPA has a duty to have regard to conserving biodiversity as part of its decision making and HE is the Council's adviser in respect of specialist ecological considerations, including relating to planning applications to assist in this decision-making process.
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3. Matters Not in Dispute

- 3.1 This section of the Statement sets out the particulars of the Appeal that are considered areas of common ground between the Appellant and the HE.

The Site

- 3.2 The site has been surveyed by Herts Ecology as well as by a number of Ecological Consultancies since 2008. These have included habitat surveys, as well as those for specific fauna, following best practice and survey protocols.
- 3.3 The site is dominated by poor semi-improved grassland and whilst the National Vegetation Classification (NVC) surveys identified some very small areas of variation that include more acidic grassland indicators, generally these are very limited covering less than 1% of the vegetative cover of the site. Other habitat types include tall ruderal, scattered scrub, scattered trees and marshy grassland.
- 3.4 The habitats on site are not identified as either Priority Habitats or Biodiversity Action Plan habitats.
- 3.5 There is a lack of statutory protected species utilising the site and in particular likely absence has been confirmed for roosting bats, reptiles, great crested newts, otters, water voles and badgers.
- 3.6 The site is Low Ecological Value.

Nearby Wildlife Sites

- 3.7 There are no statutory designations of national or international importance within the boundary of the site. There are two statutory Sites of Special Scientific Interest (SSSI) and two Local Nature Reserves (LNRs) within a 2km radius.
- 3.8 There are 11 non-statutory Local Wildlife Sites (LWS) within 2km of the site boundary including Maple Cross Lodge 15m to the southwest and Maple Lodge nature reserve (MLnr) 150m south from the site boundary.
- 3.9 It is agreed that the Appeal Scheme will not have an adverse impact on the ecological, geological or biodiversity interests of the site with regard to any of these statutory and non-statutory wildlife sites.
- 3.10 It is agreed that HE is not qualified to comment on hydrological matters as confirmed in HEs response to the Application dated 13th April 2021 (CD 2.2.2). However, it is agreed that where it has been demonstrated there would be negligible impacts on water levels (between X and Y) at MLnr as a result
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of the proposed development, this would not have an adverse impact on the ecology and biodiversity of the nature reserve.

Biodiversity Net Gain

- 3.11 The Environment Act 2021 has now passed; however, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and neither the NPPF or Policy DM6 of the Development Management Policies LDD specify a % or quantum of 'net gains'.
- 3.12 It is agreed that the proposed financial contribution of up to £142,800 has been calculated in accordance with the methodology proposed by HE.
- 3.13 It is agreed that through this contribution, the Appeal Scheme will demonstrate 10% biodiversity net gain, which exceeds the policy requirement.

Forrester Moth

- 3.14 The Maple Lodge Conservation Society submitted representations suggesting that a Forester moth had been recorded on the Appeal Site.
- 3.15 It is agreed with HE that measures have been secured for the conservation of the Forester moth through the provision of the Landscape & Ecology Management Plan to be secured by condition for onsite mitigation and the biodiversity offsite contribution of up to £142,800.
- 3.16 It is agreed that this provides the measures for Three Rivers District Council as the LPA to be satisfied that its duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 has been carried out accordingly, and 'having regard' to this species during planning.

4. Declaration

- 4.1 The Appellant and HE hereby declare that we are in agreement with this Statement of Common Ground prior to attendance at appeal.

Signed on behalf of the Appellant	Signed on behalf of Hertfordshire Ecology
Date:	Date:
Position:	Position:

Appendix I Draft Core Documents

Contact Details

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