

Report of the Head of Planning and Enforcement

Address: COLNE VALLEY VIADUCT, WETLANDS ECOLOGICAL MITIGATION SITE
HARVIL ROAD HAREFIELD

Development: Plans and Specifications submission under Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017 for an ecological mitigation scheme comprising earthworks, including one no. mitigation pond, two no. hibernaculum and one no. reptile basking bank, together with permanent fencing and one field gate.

LBH Ref Nos: 73263/APP/2017/3838

Drawing Nos:	Date of Plans:
1EW03-AEC-PL-DGA-CS01_CL01-011200-P04	20-10-2017
1EW03-FUS-EV-REP-CS01_CL01-001818 1 AWH Stage 1	31-01-2018
COPA_CR01001 Dews Farm greyscale 180817	31-01-2018
Environmental Minimum Requirements Annex 2: Planning Memorandum	31-01-2018
Correspondence dated 18/1/2018	18-01-2018
1EW03-FUS-EV-REP-C000-000293 P01 - UW1 WSI	31-01-2018
Colne Valley Wetland Ecology Memo - Jan 2018.	31-01-2018
HIS_FUS_GI_MAP_100-3_Figures	31-01-2018
Colne Valley Wetland Written Statement	26-10-2017
Colne Valley Wetland Ecology Mitigation Consultation	26-10-2017
Colne Valley Wetland Proforma	26-10-2017
Colne Valley Key Environmentally Sensitive Worksite	26-10-2017
Colne Valley Wetland Cover Letter	20-10-2017
AC100_3-COPA-GI-MAP-000-000007	31-01-2018
Applicant's rebuttal dated 31.1.2018	31-01-2018
HS2 Schedule 17 Statutory Guidance	31-01-2018
1EW03-AEC-PL-DGA-CS01_CL01-011100-P04.	20-10-2017
1EW03-AEC-PL-DGA-CS01_CL01-011050	20-10-2017

Drawing Nos:	Date of Amended Plans:
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Date Application Valid: 20th October 2017

1. SUMMARY

HS2 Planning committee - 7th February 2018

PART 1 - MEMBERS, PUBLIC AND PRESS

This application comprises a Plans and Specifications submission under Schedule 17 of the High Speed Rail (London-West Midlands) Act 2017 (The Act), in relation to earthworks within an agricultural field south of Dews Lane, Harvil Road, to create earthworks totalling 360m², including one mitigation pond, two hibernacula suitable for Great crested newts, and one reptile bank suitable for basking reptiles. Permanent post-and-wire fencing will be erected around the boundary of the site, together with one field gate in the north-eastern corner, for agricultural/ maintenance access.

The application is the third HS2 Schedule 17 planning submission that has been deposited with the Council. These Schedule 17 planning submissions can best be likened to the submission of reserved matters, where outline planning consent has already been granted. However, the role of the Planning Authority is heavily restricted as to what can and cannot form the basis of a decision.

The details relate purely to the earthworks to construct the pond and do not consider the final landscaping. The pond will be left to establish for approximately 1 year and will then be used for the translocation of great crested newts. The creation of ecological habitats is part of the mitigation and compensation measures identified during the development of the Act, to minimise the impact of the new railway on the environment.

Natural England is a statutory consultee for this proposal and has raised no objection in principle. However, as presented, the written statement is not considered to provide clarity or certainty that the impacts on ecology has been considered in a robust manner. The application statement also identifies the spreading of top soil material across the adjoining land to improve the existing soil quality. However, no information on soil quality has been presented. In addition, no evidence has been presented that the site has recently been subject to an ecological survey and although the applicant is placing significant weight on the recent intensive farming regime, there is no written or supporting evidence to support this claim. A far more detailed level of ecological information as to why this site will benefit the area, will be required. Refusal is recommended on the basis of a lack of information in this regard.

In terms of archaeology, the Greater London Archaeological Advisory Service (GLAAS) has been consulted on this application and notes that the works involve the construction of a pond and other ecological works in fields which may contain significant archaeological remains, and have been identified by HS2 as requiring archaeological evaluation and potentially mitigation measures. GLAAS has therefore raised concerns that the application was submitted before archaeological evaluation has been carried out and without reference to it. The Local Planning Authority is yet to have confirmation from GLAAS that archaeology objection has been withdrawn. Refusal is recommended on this basis.

This application was withdrawn from the 7th February HS2 planning sub committee in order to give the applicant an opportunity to address the above concerns raised by officers.

In terms of archaeology, notwithstanding the additional submission by the applicant, the Council is required to consider archaeological impacts with the submission and not at a later date. GLAAS has been reconsulted, but has not withdrawn its objection to the application as submitted. The applicant has failed to provide the necessary information and therefore the proposal is assumed to be harmful to archaeological interests and should be modified or moved.

With regard to ecology, notwithstanding the additional submission by the applicant, the Council is

required to consider the impact of earthworks on a site of ecological value. The information provided in the submission is not adequate. Officers still consider that the earthwork and spreading of material will not protect a site of ecological importance and could be damaging to ecological value of the current site and neighbouring sites.

There is no statutory obligation to consult with neighbours. However, an objection has been raised through the public consultation. The Council recognises the concerns and objection raised through the public consultation. These comments though, must be put into the context of the restrictions placed on the Authority through the Act. The objections are addressed in more detail in Section 6 of the report.

An informative is recommended seeking a site specific traffic management plan detailing the safe operation of the access off Harvil Road.

The Council's opinion is also being sought on the restoration of the land around the earthworks ahead of a formal submission. An informative has been added that sets out the Council's formal position which is expected to be taken into account.

2. RECOMMENDATION

REFUSAL for the following reasons:

1. NON2 Non Standard reason for refusal

The design or external appearance of the works ought to, and could reasonably, be modified to preserve a site of archaeological or historic interest or nature conservation value.

2. NON2 Non Standard reason for refusal

The development does not form part of a scheduled work, within the meaning of Schedule 1 of the HS2 Act, and that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

INFORMATIVES

1. IHS2 Informative HS2

Local Traffic Management Plan

The Council has concerns about the proposed access for construction traffic to the development site. The works will be undertaken from an existing access of Harvil Road, although details are unclear.

The earthworks are required to be constructed in accordance with the approved Environmental Minimum Requirements (EMR) as defined by the HS2 Act. The EMRs are made up of a suite of

documents including the Code of Construction Practice (COCP) which are binding on HS2 Ltd and its contractors. The COCP states: 'Prior to the commencement of the works, the nominated undertaker will require that local traffic management plans (LTMPs) will be produced in consultation with the highway and traffic authorities, the emergency services and other relevant key stakeholders.'

No earthworks are to commence until an appropriate LTMP is produced by HS2 Ltd. The Council requires HS2 Ltd to set out suitable proposals and arrangements as part of the LTMP process to satisfy it that safe access and egress from the works site can be maintained at all times by construction vehicles.

2. IHS2 Informative HS2

Site Specific Planting

The Council does not consider the details relating to landscaping, ecological planting and site restoration are adequate as presented. The information submitted is not adequate to fully understand what HS2 Ltd is trying to deliver by way of landscaping or restoration. The restoration package needs to be far more detailed prior to the Council confirming the approach is adequate. The details should include but not be limited to:

- Pond lining (puddled clay preferred)
- Soft landscape proposals include schedules, specifications and appropriate planting plans
- Management and Maintenance plans and schedules
- Hard Landscape details (fences, gates, tracks and ancillary works)
- Long term access arrangements for maintenance
- Site security measures
- Ecological enhancement plan showing the interaction of the site with the surrounding area
- Detailed proposals for land ownership and responsibilities
- Detailed information on how the pond will be filled and levels maintained

3. IHS2 Informative HS2

Site Wide Restoration and Mitigation

The Council is concerned and disappointed at the lack of vision for the wider area in which these proposals sit. HS2 will have a significant impact with construction activities of various scales and durations over a vast area, all of which will need to be restored. The proposals presented as part of this Schedule 17 submission are isolated to one element of the wider mitigation of HS2. The Council understands this approach is being adopted for at least two other similar proposals soon to be submitted.

Designing each proposal in isolation removes the prospect of a greater vision and will only deliver pockets of ecological mitigation, many of which may end up being fenced and gated with no public access. In turn, it is not clear that HS2 Ltd can deliver a comprehensive package, particularly since the details emerging are greatly different from those presented in the environmental statement.

The Council requires a far greater vision and this needs to be set out through a restoration masterplan that delivers the necessary ecological mitigation, but also integrates community and public benefits in a comprehensive and aligned manner. The Council expects a marked change in

approach to restoration.

3. CONSIDERATIONS

3.1 Site and Locality

The Colne Valley Viaduct South Embankment Wetland habitat creation site (hereafter referred to as 'the site') is located approximately 290m to the south-east of Hillingdon Outdoor Activity Centre and approximately 1.1km to the south of South Harefield. It is located immediately north of the Chiltern Main Line railway.

The mitigation site is approximately 0.85ha in area of which approximately 0.28ha lies within the Colne Valley SMI; the south western end of the mitigation site. The site lies to the south-west of the proposed HS2 railway line. After the HS2 construction phase, the site will be located approximately 90m southwest of the Colne Valley Viaduct.

The site forms part of an agricultural field which is bordered by established hedgerows and mature trees. The application site is bordered by mature trees and scrub to the west and south. The hedgerows forming the northern and eastern boundary are classified as native, species rich hedgerows with trees. There is currently no physical delineation to the east of the application site.

Beyond the trees to the west of the site is Hillingdon Outdoor Activity Centre. This area is also classified as a Site of Metropolitan Importance for Nature Conservation (SMI). The Chiltern Main Line railway is located immediately south of the site, whilst further agricultural land is located to the north and east.

The southern boundary, which separates the site from the Chiltern Main Line railway is classified as broad-leaved semi-natural woodland, whilst the western boundary is classified as dense / continuous scrub.

The site is located approximately 260m north-east of the Frays Valley Local Nature Reserve (LNR). Dews Dell Site of Borough Importance (SBI) (Grade I) is located approximately 330m north-east of the site.

3.2 Proposed Scheme

This application relates to the request for approval of plans and specifications relating to earthworks for the creation of one no. pond, one hibernaculum and a reptile bank, to provide compensatory habitat to address potential adverse effects on great crested newts and reptiles as a result of the HS2 proposals.

The application is submitted pursuant to Schedule 17 to the Act and comprises a written statement and plans, which includes an explanation of how the matters to which the request relates fit into the overall scheme of the works authorised by the Act. The creation of ecological habitats is part of the

mitigation and compensation measures identified during the development of the Act, to minimise the impact of the new railway on the environment. Therefore, the measures proposed are intended to not only mitigate the loss of great crested newt habitat in the locality of the HS2 works in Harefield, but help to mitigate the loss and impact on habitats across other sites.

Details of the proposed works are provided below:

Earthworks totalling 360m², including:

- o One mitigation pond, with a total surface area of 150m²;
- o Two hibernacula suitable for Great crested newts, each with a surface area of 30m² (6m x 5m); and
- o One reptile bank suitable for basking reptiles, with a surface area of 150m² (20m x 7.5m)

In addition, permanent fencing will be erected around the boundary of the site (location only for approval). This fencing will be post-and-wire, unless otherwise specified by the landowner; and one field gate in the north-eastern corner for agricultural/ maintenance access (location only for approval).

The mitigation scheme is required to be implemented early in the overall Phase 1 programme, in order to allow sufficient time for the replacement habitat to establish, prior to the translocation of great crested newts. An indicative construction programme is set out below:

Site access, surveys and mobilisation - April to December 2017

Construction of ecological habitat creation works - January to February 2018.

The approach to the maintenance of the site will follow the approach set out in HS2 Information Paper E16 - Maintenance of Landscaped Areas.

3.3 Relevant Planning History

The High Speed Rail (London-West Midlands) Act 2017 (The Act) provides powers for the construction and operation of Phase 1 of High Speed 2. HS2 Ltd is the Nominated Undertaker for the works which are the subject of this Plans and Specification application.

Phase One of HS2 will provide dedicated high speed rail services between London, Birmingham and the West Midlands. It will extend for approximately 230km (143 miles). Just north of Lichfield, high speed trains will join the West Coast Main Line for journeys to and from Manchester, the North West and Scotland. Section 20 of the Act deems planning permission to be granted for the development authorised by it, subject to the provisions of section 20 and conditions set out in Schedule 17. Schedule 17 includes conditions requiring various matters be approved by then relevant local planning authority. This is therefore a different planning regime to that which usually applies in England and is different in terms of the nature of submissions and the issues that the local planning authorities (LPAs) can have regard to in determining requests for approval.

These Schedule 17 planning submissions can best be likened to the submission of reserved matters, where outline planning consent has already been granted. However, the role of the

Planning Authority is heavily restricted as to what can and cannot form the basis of a decision. The planning conditions set out in Schedule 17 of the Act require the Nominated Undertaker (HS2 Ltd) to submit requests for approval to qualifying authorities for the following:

- Plans and Specifications;
- Matters ancillary to development (referred to as construction arrangements);
- Bringing Into Use; and
- Site Restoration Schemes (including waste and soil disposal and excavation).

Schedule 17 of the Act sets out the grounds on which the qualifying authority may apply conditions on approvals, or refuse to approve the requests for approval.

4. ADVERTISEMENT AND SITE NOTICE

4.1 Advertisement Expiry Date: Not Applicable

4.2 Site Notice Expiry Date: Not Applicable

5.0 PLANNING POLICES AND STANDARDS

The following UDP Policies are considered relevant to the application. In so far as this application is concerned the most pertinent policies applicable to the proposals relate to Heritage and ecological matters.

Part 1 Policies:

1. **PT1.EM2 (2012) Green Belt, Metropolitan Open Land and Green Chains**

(2012) Green Belt, Metropolitan Open Land and Green Chains

2. **PT1.EM6 (2012) Flood Risk Management**

(2012) Flood Risk Management

3. **PT1.EM7 (2012) Biodiversity and Geological Conservation**

(2012) Biodiversity and Geological Conservation

4. **PT1.EM8 (2012) Land, Water, Air and Noise**

(2012) Land, Water, Air and Noise

5. **PT1.HE1 (2012) Heritage**

(2012) Heritage

Part 2 Policies:

1. **AM7** **Consideration of traffic generated by proposed developments.**

Consideration of traffic generated by proposed developments.

2. **BE38** **Landscaping**

Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.

3. **OL1** **OPEN LAND AND COUNTRYSIDE**

Green Belt - acceptable open land uses and restrictions on new development

4. **OL2** **OPEN LAND AND COUNTRYSIDE**

Green Belt -landscaping improvements

5. **OL5** **OPEN LAND AND COUNTRYSIDE**

Development proposals adjacent to the Green Belt

6. **OL26** **OPEN LAND AND COUNTRYSIDE**

Protection and enhancement of trees, woodland and landscape features

7. **EC1** **Replaced by PT1.EM7 (2012)**

Protection of sites of special scientific interest, nature conservation importance and nature reserves
Replaced by PT1.EM7 (2012)

8. **EC2** **ECOLOGY AND NATURE CONSERVATION**

Nature conservation considerations and ecological assessments

9. **EC3** **ECOLOGY AND NATURE CONSERVATION**

Potential effects of development on sites of nature conservation importance

10. **EC4** **ECOLOGY AND NATURE CONSERVATION**

Monitoring of existing sites of nature conservation importance and identification of new sites

11. **EC5** **ECOLOGY AND NATURE CONSERVATION**

Retention of ecological features and creation of new habitats

12. **LPP 5.12 (2016) Flood risk management**

(2016) Flood risk management

13. **LPP 7.16 (2016) Green Belt**

(2016) Green Belt

14. **LPP 7.19 (2016) Biodiversity and access to nature**

(2016) Biodiversity and access to nature

15. **LPP 7.21 (2016) Trees and woodlands**

(2016) Trees and woodlands

16. **LPP 7.8 (2016) Heritage assets and archaeology**

(2016) Heritage assets and archaeology

17. **NPPF National Planning Policy Framework**

National Planning Policy Framework

6.0 COMMENTS ON PUBLIC CONSULTATION

6.1 There is no statutory requirement to undertake a public consultation, but given the nature of the project, all planning submissions under Schedule 17 of the Act are open for comments to inform the Council's decision making.

1 internet / e-mail response has been received making representations which is summarised below:

> Objection to this planning application and would like it to be cross-referenced to objections to previous HS2 applications, as these are parts of the same HS2-related scheme and refer to the mitigation for the Colne Valley. They are not sufficient mitigation for the loss of ecological habitats in the locality of the Colne Valley.

> They are not sufficient mitigation for the impact that the HS2 project would afflict on the residents of the Borough and wider afield.

(Officer note: The Council notes the objection and the general opposition to impact HS2 is having, and will have in the Borough. The Council's remit is extremely restricted to the factors set out in the Act:

1. That the design or external appearance of the works ought to, and could reasonably, be modified
 - (a) to preserve the local environment or local amenity,
 - (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
 - (c) to preserve a site of archaeological or historic interest or nature conservation value.
2. If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

The objections would best sit within category 1(c) above. However, to refuse the application, the development site would need to be a site of of nature conservation value and the works would be detrimental to the site.

With regard to this particular site, it is designated a site of importance for nature conservation, although site has had active agricultural management in the past. In addition, the adjoining woodland site is a site of importance of nature conservation. As set out elsewhere in the report it is considered that insufficient information has been provided to demonstrate that the proposals would not have an adverse impact on a site of nature conservation value.)

With regard to general mitigation, the proposals form part of a much wider mitigation package approved by Parliament. This pond, and the others proposed to date are not intended to be the sum total of mitigation. The wider mitigation package is set out in the Environmental Statement that was approved by Parliament with the details to be developed as the project moves forward).

GREATER LONDON ARCHAEOLOGICAL ADVISORY SERVICE (GLAAS)

"The Greater London Archaeological Advisory Service (GLAAS) provides archaeological advice to boroughs in accordance with the National Planning Policy Framework and GLAAS Charter. In the present context, GLAAS has been providing advice to yourselves and HS2 Ltd on mitigating the archaeological impact of the new railway since the project's inception and we continue to liaise closely with HS2's historic environment team and their consultants.

I am writing in connection with two Schedule 17 applications (one already determined) which have recently come to my attention as ones on which Historic England should have been consulted Schedule 17 paragraph 18(1)(f) of the Act as they lie within the Colne Valley Archaeological Priority Zone.

Both involve the construction of ponds and other ecological works in fields which may contain significant archaeological remains and have been identified by HS2 as requiring archaeological evaluation, and potentially mitigation measures. I am surprised that these applications were submitted apparently before archaeological evaluation has been carried out and without reference to it.

Whilst the groundworks are relatively small-scale and localised I would have expected evaluation results to be available to inform the decision on whether the ponds are sensitively located. This piecemeal unconnected approach is unhelpful and effectively precludes the local planning authority exercising its right under Schedule 17 paragraph 9(5)(b) to refuse the scheme and submitted and require its modification to preserve a site of archaeological interest.

Whilst I welcome the archaeological informative to consent 73195/APP/2017/3486 it may be more appropriate in the remaining case and in future comparable cases to request additional information to demonstrate how the design has assessed and mitigated archaeological impact before the application is determined (if no such statement accompanies the application).

FURTHER GLAAS RESPONSE DATED 2/2/18

I had previously been consulted by HS2 over their proposals for archaeological mitigation over wide areas both to the east and west of Harvill Road. Whilst these discussions have been welcome and generally constructive I have only just been sent the latest iteration of their project plans and will be providing further technical comment on them to HS2/Fusion shortly.

HS2/Fusion have now provided welcome reassurance that they will be undertaking evaluation and could redesign the works if necessary. This is in line with the Environmental Minimum

Requirements (EMR) Annex 3: Heritage Memorandum paras 4.6.2 and 4.6.3. However, procedurally, I would have expected evaluation results to be available to inform the decision on where the ponds are located. From my perusal of the Schedule 17 Statutory Guidance and the EMR, there does not appear to be an explicit connection between the archaeological process in the latter and the S17 procedure. However, the effect of a proposal on a site of archaeological interest is a consideration relevant to siting and design.

As I have noted previously, the absence of archaeological evaluation information at this time effectively precludes the local planning authority making an informed decision and exercising its right under Schedule 17 paragraph 9(5)(b) to refuse the scheme as submitted and require its modification to preserve a site of archaeological interest.

In this case, we do not have specific information demonstrating that the siting of the pond should be modified nor could we suggest a specific alternative. However, it is agreed by all parties that there is a risk in this respect and that further archaeological information is necessary. I note that the statutory guidance (section 8) says that the planning authority can approve some elements of the works and leave subsidiary issues for a subsequent decision.

In the circumstances I suggest the planning authority might either approve the application as submitted relying on the assurances received that modifications could take place later if necessary to comply with the EMR, or that the planning authority approve other aspects of the scheme except the siting of the ponds for which additional details relating to archaeological preservation are still required. My preference would be for the latter approach. This situation should illustrate to HS2 why archaeological evaluation should be undertaken early in the design process.

NATURAL ENGLAND

SUMMARY OF NATURAL ENGLAND'S ADVICE - NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's advice on other natural environment issues is set out below.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Schedule 17 for HS2

This planning proposal is for a development scheme or works scheduled under the provisions of the High Speed Rail (London-West Midlands) Act (2017) which form part of the High Speed Two scheme within your area. It should therefore be determined using the planning regime established by that legislation. The Act grants the work deemed planning permission, subject to certain matters and details of the deemed consent being reserved for subsequent local planning authority approval under Schedule 17. We advise that, in determining the consultation, the planning authority should have regard to the permissions already granted under The Act, and to any relevant supporting documents to The Act.

The planning authority should advise HS2 Ltd that the proposals must be designed in accordance

with any relevant European Protected Species licence and ecological standards for the project. Further general advice on the consideration of protected species and other natural environment issues is provided below.

Landscape

Paragraph 109 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments.

Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply the requirements of the NPPF. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in Natural England's Technical Information Note 049. Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Protected Species

Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 113 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies. Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found here

Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

Ancient woodland and veteran trees

You should consider any impacts on ancient woodland and veteran trees in line with paragraph 118 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forest Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland/veteran trees where they form part of a SSSI or in exceptional circumstances.

Environmental enhancement

Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 9, 109 and 152 of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 118 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraph 75 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access

routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat.

HAREFIELD TENANTS AND RESIDENTS ASSOCIATION - No response.

HERTS AND MIDDX WILDLIFE TRUST

The planting plan specifies Black Poplar to be planted in the hedgerow. 'In addition, individual English Oak and Black Poplar trees will be planted within the hedgerow'. It can be very difficult to obtain a variety of different, genuine Native Black Poplar (*Populus nigra* ssp. *betulifolia*) clones. A genetic bank project to harvest and grow genetically identified, different native clones from around the country was established by Aylesbury Vale District Council some years ago. In order to obtain as wide a genetic selection as possible AVDC ecology department should be contacted to source the material."

6.2 FLOOD AND DRAINAGE OFFICER

The site is in Flood Zone 1 and these works do not require the creation of bunds, rather the excavation of areas to form a pond and limited enabling work to access the site. Therefore there are minimal flood risk implications. It is unclear if the pond is designed to be a wetted pond and therefore to retain water in which case there could be some consideration for water building up within the pond and overflowing. However there are no vulnerable uses between this pond and the lake to the west.

HIGHWAYS (TRANSPORTATION/TRAFFIC)

A plan should be submitted

- a) showing construction routes including confirmation that land owners over which the construction route is located have been notified/consented.
- b) showing a visibility splay on Harvil Road at the access location, commensurate with a speed limit of 50 mph.

(Officer Note: A local traffic management plans (LTMP) will be produced in consultation with the highway and traffic authorities, the emergency services and other relevant key stakeholders. This will be the subject of a separate Schedule 4 application).

TREES/LANDSCAPE OFFICER

This site is occupied by the western edge of a field system, on the east side of the Colne Valley. The field is approximately 290m to the south-east of HOAC and Dews Farm, and immediately north of the Chiltern Mainline Railway. The plot of land is almost triangular in shape and is accessible via a footpath at the northern tip. Forming part of an ecological mitigation scheme associated with HS2, this plot of land will be located approximately 90m south-west of the proposed Colne Valley viaduct.

COMMENT: The site lies within the Colne Valley Regional Park and is within the Green Belt. The proposal is made in response to the 'Key Environmentally Sensitive Worksite Management Plan' (WESWMP) and forms part of the package of measures within the 'Enabling Works Contracts' (EWC) for the Phase One route. The scope of the proposed work includes the construction of a 150m² kidney-shaped pond with a south-facing reptile basking bank and two hibernacula. The whole plot will be faced and gated with a new planted hedgerow. The pond will have a maximum depth of 1.5 metres and a range of slope profiles and finished depths, creating four distinct planting zones which reflect the water requirements of different plant types including: terrestrial plants, two different characters of emergent aquatics and submerged / floating plants.

Fusion's letter of 20 October 2017, includes further details about the palette of typical plant to be specified and the procurement process. It also refers to an 'Ecology Site Management Plan' which will be developed to specify the management requirements for both the establishment period and the longer term. It refers to timescales set out in HS2 Information Paper E26 - 'Indicative Periods for the Management and Monitoring of Habitats Created for HS2 Phase One' and the maintenance approach set out in Paper 16 - 'Maintenance of Landscaped Areas'.

RECOMMENDATION: No objection in principle. However, the final construction details for the pond are unknown. It is understood that the lining of the pond will depend on further site investigation to determine whether a locally- sourced puddled clay liner is feasible. It is understood that management and maintenance details will follow in accordance with the HS2 Information Paper E16 - 'Maintenance of Landscaped Areas'.

SUSTAINABILITY OFFICER

I object to the proposed development as presented.

The proposals fall under Schedule 17 of the HS2 Act and are described as an earthwork. The grounds for consideration are set out in Schedule 17(3):

That the design or external appearance of the works ought to, and could reasonably, be modified

- (a) to preserve the local environment or local amenity,
- (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
- (c) to preserve a site of archaeological or historic interest or nature conservation value.

The site is located within an archaeological priority area and overlaps a site of importance for nature conservation.

The information submitted with the proposals acknowledges these two matters, but importantly, provides no evidence or information to support conclusions. The Council expects HS2 Ltd to engage in a formal manner with the considerations above and provide technical evidence to support their conclusions.

As presented, the written statement provides no clarity or certainty that the impacts on ecology and archaeology have been considered in a sound way.

The proposals are not a scheduled work as confirmed to the Council by HS2 Ltd. The proposals could reasonably be located elsewhere. However, if the Applicant is not prepared to engage at a technical level with the requirements above, any subsequent site is also likely to be of concern.

The objection is therefore based on a lack of information.

The applicant will need to provide clear archaeological investigation results, and to provide a detailed ecological statement advising the Council that the proposals will positively interact with the neighbouring ecological sites.

Finally, the application statement also identifies the spreading of top soil material across the adjoining land. This is an earthwork defined by the Act and requires separate consent. The reason for the spreading is to improve the existing soil quality. However, no information on soil quality has been presented therefore the assertions of the applicant are without merit. This activity could have an impact on the conservation value of the site which is likely to be of importance for protected species.

7.0 MAIN PLANNING ISSUES - High Speed Rail(London - West Midlands) Act

7.1 THE PRINCIPLE OF THE DEVELOPMENT

The principle of the development has been established by virtue of The High Speed Rail (London West Midlands) Act 2017, which provides powers for the construction and operation of Phase 1 of High Speed 2.

This application provides information to assist with the determination of the Plans and Specifications submission (Schedule 17) in relation to earthworks to create one no. pond, a reptile bank and two no. hibernacula and associated earthworks on land west of Harvil Road and south of Dews Lane, Harefield.

Section 20 of the Act deems planning permission to be granted for the development authorised by it, subject to the provisions of section 20 and conditions set out in Schedule 17. This schedule includes conditions requiring various matters be approved by the relevant local planning authority.

Decision Making Constraints

Schedule 17 of the HS2 Act constrains the decision making principles for the proposal. The Act sets out the considerations material to this proposal, i.e. the grounds for refusal or approval: That the design or external appearance of the works ought to, and could reasonably, be modified:

- (a) to preserve the local environment or local amenity,
- (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
- (c) to preserve a site of archaeological or historic interest or nature conservation value.

If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits. The proposals do not constitute a scheduled work as set out in Schedule 1 of the HS2. They are works required to mitigate for the adverse affects of a scheduled work, but are not themselves scheduled. Consequently, consideration can be given to whether the 'development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits' as well as to the design and external appearance.

EARTHWORKS

The pond has been designed to permanently hold water and to specific criteria, with the objective of providing wetland habitat for the majority of the year. Careful consideration has been given to the arrangement of the pond, the depth of water, a range of slope profiles and the balance of cut and fill, to enable excavated material to be retained within the site. The top soil from the mitigation pond will be used to create the reptile basking bank and hibernacula for which approval under Schedule 17 is sought.

The subsoil will be thinly spread across the area identified for the creation of wetland to reduce the nutrient levels from those associated with agricultural use to help the establishment of the wetland. The applicant contends that the change in levels will be slight and have a negligible effect on levels across the site. On this basis the applicant has unilaterally ruled it unnecessary for the soil spreading to form part of the submission. However, officers do not agree with this approach and this procedural issue, together with its impact on ecology are covered in the following sections of this report.

In terms of the visual impact of the proposed earthworks, the whole site falls within the Green Belt. The most important attribute of Green Belts is their openness and the aim of preserving the openness of Green Belt land is reiterated in Local Plan Part 1 Policy EM2, Local Plan Part 2 Policy OL1, the London Plan and the NPPF. Saved Policy OL2 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012) seeks landscape improvements within the Green Belt. Saved Policy OL5 will only permit proposals for development adjacent to or conspicuous from the Green Belt if it would not harm the character and appearance of the Green Belt. Saved Policy BE26 seeks to protect trees and woodland.

It is considered that the visual impacts of the proposal are unlikely to be of significant detriment to the character of the area, or the perception of openness of the Green Belt, in accordance with Saved Policies OL1, OL2, OL5 and OL26 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012), London Plan Policy 7.16 and the provisions of the NPPF.

ECOLOGY

Nearby ecological features include broad-leaved woodland (Dews Dell), a hedge, a lake used by Hillingdon Outdoor Activity Centre and Frays Valley Local Nature Reserve.

The creation of ecological habitats is part of the mitigation and compensation measures identified during the development of the Act to minimise the impact of the new railway on the environment. Therefore, the measures proposed do not only mitigate the loss of great crested newt habitat in the locality of the HS2 works in West Ruislip, but help to mitigate the loss and impact on habitats across other sites. The mitigation scheme is required to be implemented early in the overall Phase 1 programme, in order to allow sufficient time for the replacement habitat to establish, prior to the translocation of great crested newts. There are no existing water bodies at the site.

The mitigation site is approximately 0.85ha in area of which approximately 0.28ha lies within the Colne Valley SMI; the south western end of the mitigation site. The whole of the mitigation site is located within a much larger field, which appears to have been managed at least periodically for hay in the past.

The proposal is to build one pond, a reptile bank and two great crested newt hibernacula. The site

is to be enclosed by hedgerows and the grassland oversown with a wet grassland mix to increase the plant species diversity. The part of the mitigation site within the SMI will have two great crested newt hibernacula constructed in it and the grassland oversown. Any surplus soil from construction of the pond following construction of the reptile bank and hibernacula would be spread on the land outside of the SMI. Further details are provided below.

Pond

The new pond will total a maximum of 150m² in surface area and have a maximum depth of 1.5m. The pond will be located within an area of wetland. The pond will be designed to permanently hold some water to provide a wetland habitat all year round, although there will be 'drawdown' of water in the summer months. The use of a geosynthetic liner may be required if determined to be necessary for the pond to provide standing water for the entire year. This will be confirmed following further survey of ground conditions, which will include a trial pit or auger survey to determine the drainage characteristics of the soil.

Reptile Basking Bank

One reptile bank suitable for basking reptiles will be created within the site. The reptile basking bank will be located towards the north-east of the site and orientated to provide a southern face.

Hibernacula

The two new hibernacula will be created using the spoil from the pond excavations mixed with hardcore, brick, rubble, logs etc. to create mounds. Both of the hibernacula will be located in the south-western part of the site.

The new pond and hibernaculum will be situated within the terrestrial range of existing assumed great crested newt breeding ponds, which will allow linkages to other populations. The applicant also advises that the location of the ponds also reflects the existing and proposed utility corridors in the vicinity, with the location for the ponds being identified in consultation with the HS2 Limited utilities team and the relevant utility providers.

The applicant states that an Ecology Site Management Plan (ESMP) will be created in order to specify management requirements for both the establishment period, and in the longer term. The ESMP will:

Describe the current condition and status of the ESMP site prior to habitat creation measures being implemented; Identify specific objectives and targets for the ESMP site relating to both establishment and end condition, including timescales; Provide data recording the ESMP site prior to and post construction works; List in detail the specific management actions and prescriptions to be followed to ensure successful habitat establishment, development and achievement of the desired end condition; Detail the monitoring and reporting requirements of the ESMP and the mechanisms by which review and adaptive change to the ESMP will take place;

The Local Planning Authority will be consulted on the ESMP content in due course. Management will be implemented within the timescales set out in HS2 Information Paper E26 - Indicative Periods for the Management and Monitoring of Habitats Created for HS2 Phase One. The approach to the maintenance of the site will follow the approach set out in HS2 Information Paper E16 - Maintenance of Landscaped Areas.

Natural England is a statutory consultee for this proposal and has raised no objection in principle, but has provided advice on how the Local Planning Authority should assess the proposed works in terms of landscape, protected species, environmental enhancement, local sites and priority

habitats and species and ancient woodlands. Natural England notes that the Local Planning Authority has a duty to have regard to conserving biodiversity as part of its decision making, which can include restoration or enhancement to a population or habitat site of importance for nature conservation.

The information submitted with the proposals acknowledges that part of the site is of importance for nature conservation, but importantly, provides no evidence or information to support conclusions. As presented, the written statement is not considered to provide clarity or certainty that the impacts on ecology has been considered in a robust manner.

No evidence has been presented that the site has recently been subject to an ecological survey. The supporting statement (2.2) provides a chapter on Ecological Features of the site and area. It provides a very broad assessment of the features and in particular the boundaries, but there appears to be have been no specific survey to identify the features on site. Consequently it does not appear that the applicant has considered the site beyond a desktop study.

The statement has failed to identify what species are present on site, similarly, it has failed to identify the specific species that the site benefits (invertebrates, mammals, reptiles etc...). In addition, the applicant has failed to demonstrate how this proposal in this location would be of beneficial impact. The site is partly within a site of importance for nature conservation (SINC) and provides a supporting habitat for the surrounding area. The proposal is for the creation of a pond, largely to provide hibernacula and habitat for great crested newts. However, it is difficult to see how the creation of the pond would improve the quality of this site and no evidence has been presented to the contrary. The statement has identified three other ponds in the area, but admits these have not been surveyed. In addition, there is no assessment of whether this pond in this location would be suitable for this species.

Although the applicant is placing significant weight on the recent intensive farming regime, there is no written or supporting evidence to support this claim. The Council's own assessment reveals a distinct lack of farming activity on the site and the assertions that the soil quality across the site needs improving, owing to agricultural use is not supported by any evidence. The site has now taken on the role of an un-managed site and consequently represents a high quality biodiversity receptor. Common teasel is the predominant species across the site. This is regarded as a highly valuable wildlife species given its importance in flower to bees and butterflies in particular and then when in seed is of high value to birds.

The application statement also identifies the spreading of sub soil material across the adjoining land, to reduce the nutrient levels from those associated with agricultural use to help the establishment of the wetland. However, the assertions that the soil quality across the site needs improving owing to agricultural use is not supported by any evidence. It is not clear how spreading further material across the site would improve conditions, without removing the existing value. No information on soil quality has been presented. Consequently, the spreading of material may have a significant impact on the current ecological value of the site.

The applicant contends that the change in levels associated with the spreading of soil will be slight and have a negligible effect on levels across the site, thereby not constituting an earthwork. However, it should be noted that the Act does not clearly define what an earthwork is. It does not refer to 'scales' of earthworks. Therefore, reference by the applicant to the slight change in levels being a reason to unilaterally rule this part of the works should to form part of the submission, is considered to be inappropriate and unreasonable.

The Council advised the applicant of the concerns with the submission on two occasions, seeking clarification of the approach to ecology (alongside archaeology). However, the responses provided no further evidence and did not respond specifically to the points raised. Officers consider that a more detailed level of ecological information as to why this site will benefit the area, will be required.

The Act requires the Council to consider the impacts on a site with nature conservation value. The site is clearly of importance, yet the applicant has, despite repeated requests, failed to provide adequate evidence regarding the site or the rationale for selecting it. Officers are not satisfied that the proposals are necessary in this area, or that the applicant has understood the site or the impacts of the proposals. This is not a scheduled work and it is considered that the works can reasonably be expected to be located in a more suitable location.

It should be noted that this application was withdrawn from the 7th February 2018 HS2 planning sub committee, in order to give the applicant an opportunity to address the above mentioned ecological concerns raised by officers. However, notwithstanding the applicant's rebuttal, it is still considered that the applicant has failed to demonstrate that the proposal would protect an area of ecological value.

To date the applicant has maintained that the site was recently ploughed (2016 as opposed to the original assertion of 2017) and implied that it had no ecological value. The Council has received no surveys or assessments of the site. The applicant provided no evidence that the site had been ploughed and removed of ecological value. The applicant maintains that the site was last ploughed in 2016 which is not supported by aerial photography. The applicant has still not provided the alleged communication from the landowner to support their assertions.

A follow up site visit by the Council showed the site to be of likely high ecological value. The Applicant belatedly provided new information including an updated Ecology Memo dated 18 January 2018. The applicant contends that the site is now of some ecological value, although has still not provided any surveys to determine to what extent. It would appear the site was chosen on the belief it had been ploughed and was in a poor state. However, officers contend that the site is now of ecological value and therefore the proposals to remove this value and replace it with a different type of ecology does not preserve the current value nor does it appear necessary.

The Council also considers that the proposals should include as part of this application, the spreading of subsoil across the land, as this would remove all ecological value on site. It is noted from the HS2 correspondence:

As previously advised, HS2 considers that spreading of soil does not constitute an earthwork, and the only earthworks for which HS2 is seeking Schedule 17 approval are those specified in the submission. It is noted that HS2 Ltd are still seeking legal advice on this matter. As stated previously, the Council does not consider there is a clear interpretation of earthworks. In this instance, the spreading of material would remove all ecological value of the site, which includes reptile habitat and species favourable to invertebrate and birds; therefore the spreading of subsoil cannot be considered a negligible impact.

With regard to the pond earthworks, the design will result in a pond with the aim of providing a site for potential relocating great crested newts. The Council has asked specific questions about the siting of a new pond close to three others that have not been surveyed. Natural England has failed to provide the specific answers to questions raised by officers at the time of writing this report.

However, the following approach to relocating great crested newts has been communicated to the Council in the past by Natural England:

1. Newts should be left within the appropriate range of their existing ponds where possible.
2. However, if it is deemed unsuitable or impossible to keep them in their existing ranges they can be moved to receptor sites some distance away, but this course of action would have to be fully justified.
3. If justified, the new receptors sites have to be established and it would also have to be proved that re-homing the newts to these new sites would not impact on an existing meta population. Essentially, the new ponds should not impact on the ecosystem balance of existing ponds.

It is understood that stages 1 and 2 have been deemed acceptable by Natural England and the Council has no remit in this matter. In any event, this is not relevant to this Schedule 17 submission and the requirements of the Act. However, the Applicant has acknowledged in the supporting information that three ponds in the area are yet to be surveyed.

The Council is being asked to approve earthworks to create a great crested newt pond in the area of three other ponds. These ponds may already contain great crested newts, and this site may now provide suitable habitat for great crested newt, given the lack of agricultural activity in recent years. The Council does not have the required level of information to determine that these earthworks would not have an impact on an European protected species in ponds elsewhere. Dealing with European protected species requires a great deal more scientific attention than presented in the information for the Schedule 17 submission. The Council is in liason with Natural England, but no satisfactory resolution has been reached.

The Council can consider whether the proposal ought to, and could reasonably, be carried out elsewhere within the development's permitted limits as well as the design and appearance. The 'permitted limits' relate to the area of land identified for the delivery of HS2 and therefore constitutes large areas of land running from London to Birmingham.

The proposals are clearly within an area of ecological value and of nature conservation interest. There is insufficient information to demonstrate that the proposed design and location suitably preserve the existing conservation value of the site. Similarly, no justification has been provided to clearly identify why this specific location has been chosen; it would appear from the details that the site was originally selected on the basis there was intensive farming practices that degraded the land. As this is now not evidently the case, and the site is of nature conservation value, then the onus must be on the applicant to demonstrate the perseveration of the conservation value. This has not been done. The extent of the 'permitted limits' defined by the Act include areas of recent agricultural activity or land that has been heavily maintained land and in general, land with varying degrees of nature conservation value. Given the value of the proposed site, and the extent of permitted limits, the proposal ought to and could reasonably be carried out elsewhere in the permitted limits of HS2, in order to preserve a site of nature conservation value.

The proposals have failed to demonstrate that the existing ecological value of the site will be preserved, contrary to Local Plan Part 1 Policy EM7, Policies EC1, EC2, EC3 and EC5 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012), Policy 7.19 of the London Plan (2016) and the NPPF.

LANDSCAPING

The Tree and Landscape officer notes that no trees or landscape features of merit will be affected by the proposal and that the design objective is to contribute to the wider package of habitat creation, to ensure that there is no net loss of biodiversity, caused by HS2.

Boundary Treatment

New fencing is proposed along the boundaries of the site. Limited details of the fencing type have been provided. However, only its location requires approval under Schedule 17. A new hedgerow will be planted along the whole boundary of the site, although these elements do not require approval under Schedule 17.

Habitat creation planting

In addition to the earth works for which approval to plans and specifications is required, the overall mitigation scheme in this location also includes habitat creation planting. Wetland habitat will aim to provide terrestrial habitat for great crested newts, reptiles and foraging bats. The habitats will be enhanced by the provision of the hibernacula suitable for amphibians and reptiles.

New hedgerow habitat created at the site will be suitable terrestrial habitat for great crested newts and reptiles, and foraging and commuting habitat for bats. In addition, individual English Oak and Black Poplar trees will be planted within the hedgerow.

Planting associated with the pond will be in 4 zones:

Plant Zone 1: Terrestrial plants not associated with water inundation.

Plant Zone 2: Emergent aquatic plants that tolerate periods of summer exposure

Plant Zone 3: Emergent aquatic plants with a lower tolerance to exposure and plants associated with seasonal inundation

Plant Zone 4: Submerged and floating plants which require permanent standing water all the year round.

The mitigation planting does not require approval under this application and does not therefore form part of this request for approval. However, the mitigation planting will comprise part of the overall mitigation schemes which will be submitted as part of the requests to bring into use scheduled works. Further details of the mitigation planting have therefore been provided, requesting the Council's views on the planting, in accordance with the requirements of the HS2 Planning Memorandum.

By way of clarification, the Council is only being asked for its opinion on the planting information submitted with this formal Schedule 17 submission relating to the earthworks. The Local Authority through which the scheme runs must first be content with the restoration of the land prior to bringing into use the railway. Some of the details relevant to bring the railway into use will be determined and implemented long before the use of the railway commences. For example, the landscaping around the earthworks for this application will form part of the overall scheme, which will only be considered for approval once the railway is about to be used, in approximately 10 years time.

HS2 Ltd is therefore seeking the Council's opinion now, on the landscaping of the ponds, ahead of the formal submission for approval to bring the railway into use in approximately 10 years time. This provides the Council with the opportunity to set out its formal position and actively input into the final

restoration of land.

The attached informatives therefore present the Council's opinion on the landscape details, provided for information only. In summary, the Council does not consider the details relating to landscaping, ecological planting and site restoration are adequate as presented. In terms of the site wider restoration and mitigation, it is considered that the Council requires a far greater vision which needs to be set out through a restoration masterplan, that delivers the necessary ecological mitigation, but also integrates community and public benefits in a comprehensive and aligned manner.

ARCHAEOLOGY

The site is located within the Colne Valley Archaeological Protection Zone (APZ) an area of acknowledged archaeological potential. Under the Environmental Minimum Requirements (in this case the Heritage Memorandum) the Council expects the following to be completed prior to the commencement of development:

- An archaeological field evaluation (to inform location-specific investigation and recording) with a statement provided to the Local Planning Authority
- Location-specific investigation and recording with the appropriate reporting as necessary
- Archaeological and built heritage post excavation (assessment, analysis, reporting and archiving).

This will ensure that the archaeological importance of the site is recorded and informs further investigations in the area.

Greater London Archaeological Advisory Service (GLAAS) has been consulted on this application and notes that the works involve the construction of ponds and other ecological works in fields which may contain significant archaeological remains and have been identified by HS2 as requiring archaeological evaluation, and potentially mitigation measures. It has therefore raised concerns that the application was submitted before archaeological evaluation has been carried out and without reference to it.

Whilst the groundworks are relatively small-scale and localised, GLAAS expects evaluation results to be available to inform the decision on whether the ponds are sensitively located. Crucially, this lack of an appraisal effectively precludes the local planning authority exercising its right under Schedule 17 paragraph 9(5)(b) to refuse the scheme as submitted and require its modification to preserve a site of archaeological interest.

The Council's Sustainability Officer shares these concerns and advises that additional information will be required to demonstrate how the design has assessed and mitigated the archaeological impact before the application is determined.

The applicant has submitted that it has been in direct liaison with GLAAS over the past few weeks and that any GLAAS concerns have been resolved. However the Local Planning Authority is yet to have confirmation from GLAAS that archaeology objection has been withdrawn.

It should be noted that this application was withdrawn from the 7th February 2018 HS2 planning sub committee in order to give the applicant an opportunity to address the above concerns raised by officers. The main thrust of the response from the applicant is one around process. There is no dispute that the site is in archaeological area and no rebuttal to the assertion the development would have an impact. To that end, it must be agreed that the development as presented would

impact on archaeological interest.

The applicant states:

"Furthermore, paragraph 10.3 of that Guidance states that when determining any request for approval, conditions should not be imposed which conflict with controls or commitments contained in the EMRs. This is because these controls would have been considered necessary or sufficient by Parliament when it approved deemed planning permission for the railway. Accordingly, as the Historic Environment Research and Delivery Strategy (HERDS) process (as part of the EMRs) has to be followed, the design or external appearance of the works do not need to be modified to preserve a site of archaeological interest.

Ultimately, at the Colne Valley Wetland site, if archaeological investigation identifies assets which should be preserved in-situ and which 'clash' with proposed pond location, the habitat site will need to be redesigned and potentially, a new Schedule 17 submission made".

Firstly, the Council is not seeking a condition. It is seeking to understand whether or not the development should proceed in the chosen location, and if it does, whether the design needs to be amended to preserve archaeological interest.

Secondly, the suggestion that the controls of the Act should not be duplicated and citing alternative processes is entirely at odds with what the Act says. If the intention was to defer archaeological investigations to alternative processes and not to form part of Schedule 17 considerations, then the Act should have been written to obviate the ability to consider archaeology in Schedule 17 submission.

On the contrary, the Act specifically requires Authorities to take into account the archaeological impacts at decision making stage. The position of the applicant puts the Council in an awkward situation; its essentially say do not consider it now, consider it after you have approved it and then if there is harm, we will come back to you with a new submission. This is clearly not what was intended by the Act and sets a dangerous precedent. Elsewhere, the Council will receive large scale Schedule 17 earthworks consents. Some of which will go through extensive design phases. It would be entirely inappropriate to approve these and to deal with archaeology at a later date. This could potentially waste time on designs, and end in programme delays.

Clearly the inclusion of archaeology in Schedule 17 supports an expectation for it to be considered properly at determination stage. The applicant has not engaged with the substantive points and focused solely on process.

In light of the above mentioned factors, it is considered that the proposals have failed to demonstrate that there will not be an unacceptable harm to an area of archaeological interest, contrary to Local Plan Part 1 Policy HE1, Policies BE1 and BE3 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012), Policy 7.8 of the London Plan (2016) and the provisions of the NPPF.

8.0 BOROUGH SOLICITOR COMMENTS

The High Speed Rail Act 2017 received Royal Assent on 23 February 2017. Section 20 of the Act

provides that planning permission is deemed to be granted under Part 3 of the Town and Country Planning Act 1990 for development authorised by the Act, subject to the other provisions of the Act and the conditions set out in Schedule 17. It is a condition of the deemed planning permission that the development must be begun no later than the end of 10 years beginning with the date on which the Act is passed. The planning permission conferred by the Act is analogous to an outline planning permission, which settles the principle of the overall development of Phase One of the HS2 scheme, whilst leaving certain details to be approved at a later stage.

The Council, in its capacity as a local planning authority, was given a choice between having a wide or narrow range of planning controls in place in relation to the development required in respect of Phase One of the HS2 scheme. The Council elected to become a qualifying authority which means that in practice, it has a wide range of controls at its disposal which for example, include the ability to approve the detailed design of permanent structures such as the Colne Valley Viaduct and also to have an enforcement and approval role in relation to certain construction matters.

This is the third application submitted by the Nominated Undertaker, HS2 Ltd, pursuant to Schedule 17 of the Act, which falls to be considered by the Sub-Committee, It comprises a plans and and specifications submission for an ecological mitigation scheme comprising earthworks, including one no. mitigation pond, two no. hibernaculum and one no. reptile basking bank, together with permanent fencing and one field gate on agricultural field land west of Harvil Road and south of Dews Lane.

Earthworks are defined in the Act as "terracing, cuttings, embankments or other earth works".

Members will be aware that Schedule 17 is very prescriptive about the manner in which qualifying authorities should determine applications submitted by HS2 Ltd. For example, authorities such as the Council may only refuse to approve plans or specifications, or impose conditions on approvals, on one or more of the statutory grounds set out in Schedule 17. If the application relates to earthworks, as is the case here, the following grounds are relevant and apply in this case:

'That the design or external appearance of the works ought to, and could reasonably, be modified to preserve the local environment or local amenity, to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or to preserve a site of archaeological or historic interest or nature conservation value.'

Members will note that in the body of the report, it is made clear that the Greater London Archaeological Advisory Service has been consulted on this application and it has noted that the proposed works are to take place on fields which may contain significant archaeological remains and have been identified by HS2 Ltd as requiring archaeological evaluation and potentially mitigation measures. GLAAS has raised concerns that the application was submitted before archaeological evaluation has been carried out and without reference to it.

GLAAS has submitted further written comments on 2 February 2018 which include a reference to the absence of archaeological evaluation information and they state that this effectively precludes the local planning authority making an informed decision and exercising its right under Schedule 17 to refuse the scheme as submitted and require its modification to preserve a site of archaeological interest. However, GLAAS have failed to recognise that it is not simply open to the Council, under Schedule 17, to make a non-determination in relation to the application submitted by HS2 Ltd and that the Council is required to determine it within a prescribed statutory time limit.

With regard to ecology, no information on soil quality has been presented by HS2 Ltd and furthermore, there is no evidence that the site in question has been subject to an ecological survey and although HS2 Ltd is placing significant weight on the recent intensive farming regime, there is no written or supporting evidence to substantiate this claim. It is the Council's position that a far more detailed level of ecological information is required from HS2 Ltd. In spite of Council officers requesting this information from HS2 Ltd, they have to date failed to provide it.

The position is that in terms of both archaeology and ecology, HS2 Ltd have fallen short of what has been required of them yet they still expect the Council to determine their application. The Council has insufficient information in relation to the current design and external appearance of the works and therefore it is entitled to take the view that if HS2 Ltd had taken the necessary steps, both would have been capable of being reasonably modified so as to preserve a site of archaeological or historic interest or nature conservation value. As matters currently stand, significant archaeological and ecological implications would arise if the works proceed as planned in their current form.

There is also a further Schedule 17 ground which it is open to Members to rely upon for the purpose of refusing this application. This ground states, 'If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits'. Members' attention is drawn to pages 16 and 17 of the report where the comments of the Sustainability Officer are set out. He confirms that the proposed works, which are the subject of the Schedule 17 application, are not scheduled works within the meaning of Schedule 1 of the HS2 Act, and for the reasons he has set out, that they could reasonably be carried out elsewhere within the development's permitted limits.

9.0 OTHER ISSUES

FLOODING AND DRAINAGE

The proposed development will not impact on the existing drainage arrangements on the site and is located in Flood Zone 1. The new pond will be situated within an arable agricultural field surrounded by farmland, existing and proposed woodland planting, existing adjacent grassland and scrub habitat.

The new pond will total a maximum of 150m² in surface area and have a maximum depth of 1.5m. The pond will be designed to permanently hold some water to provide a wetland habitat all year round, although there will be 'drawdown' of water in the summer months. The use of a geosynthetic liner may be required if determined to be necessary for the ponds, to provide standing water for the entire year. This will be confirmed following further survey of ground conditions, which will include a trial pit or auger survey to determine the drainage characteristics of the soil.

The Flood and Drainage Officer notes that these works do not require the creation of bunds, rather the excavation of areas to form a pond and limited enabling work to access the site. Therefore there are minimal flood risk implications. It is unclear if the pond is designed to be a wetted pond and therefore to retain water in which case there could be some consideration for water building up within the pond and overflowing. However there are no vulnerable uses between this pond and the lake to the west. Therefore there are no objections on flood and drainage grounds.

It is considered that the scheme will have satisfactorily addressed drainage and flood related

issues, in compliance with The Hillingdon Local Plan: Part 2 Policies OE7 and OE8, Policies 5.13 and 5.15 of the London Plan and the aspirations of the NPPF.

HIGHWAY IMPLICATIONS

Access to the site will be via an existing field gate off Harvil Road, just south of Lower Lodge, and then directly through the field running to the north of the line of the existing overhead power line. It is anticipated that the construction vehicle movements will broadly comprise the following:

- Underground utility survey - one vehicle for two days
- Fencing - one vehicle for one day
- Construction - one beavertail truck offloading a 13 tonne excavator and a side tipping dumper which will remain on site for the duration of the works then be removed following completion.
- Landscaping team -two cars per day for up to 8 weeks.

The applicants submit that traffic movements to and from the site during the construction period will be relatively infrequent, as there will be no residual spoil, which would need to be transported away from the site.

In addition, the applicant submits that the traffic impacts of the work have been assessed to be in keeping with the HS2 Environmental Minimum Requirements (EMRs), set out in the Planning Memorandum and the works are thus considered to be in an acceptable location. In addition, pond construction will achieve a cut/fill balance, with material excavated from the ponds spread across the site and used for the construction of hibernacula and reptile basking bank, thus eliminating the need for excessive lorry movements arising from the removal excess spoil.

The applicant also points out that the HS2 Act seeks to streamline the planning process by utilising an overarching construction methodology and environmental assessment for all HS2 works, via the Environmental Minimum Requirements and Environment Statement. In this case, the proposed, vehicle numbers/types do not trigger the need for approval of a lorry route. Therefore traffic movements fall within the deemed permission of the Act subject to HS2 controls.

It is acknowledged that access arrangements are not considered significant in the Environmental Statement (ES). However, there may be safety implications at a local level. It is noted that at no point has HS2 Ltd specifically assessed the safety implications for accessing lorries for this proposal in this area off Harvil Road. The increase in vehicles on this sensitive road is considered to be of concern, although no excess soil is to be removed from the site. Nonetheless, there are concerns about the robustness of existing traffic management plans.

Consequently, an informative is recommended seeking a site specific traffic management plan, detailing the safe operation of the access off Harvil Road, including but not limited to ensuring suitable site lines are available to vehicles turning right on to Harvil Road and safety measures are taken to ensuring vehicles turning on to and off Harvil Road from the site access are managed in a manner that minimises risk to other vehicles on Harvil Road, in compliance with Policy AM7 of the Hillingdon Local Plan: Part Two Saved UDP Policies and Chapter 6 of the London Plan.

10.0 REFERENCE DOCUMENTS

HS2 Planning committee - 7th February 2018

PART 1 - MEMBERS, PUBLIC AND PRESS

The High Speed Rail (London-West Midlands) Act 2017.

Contact Officer:

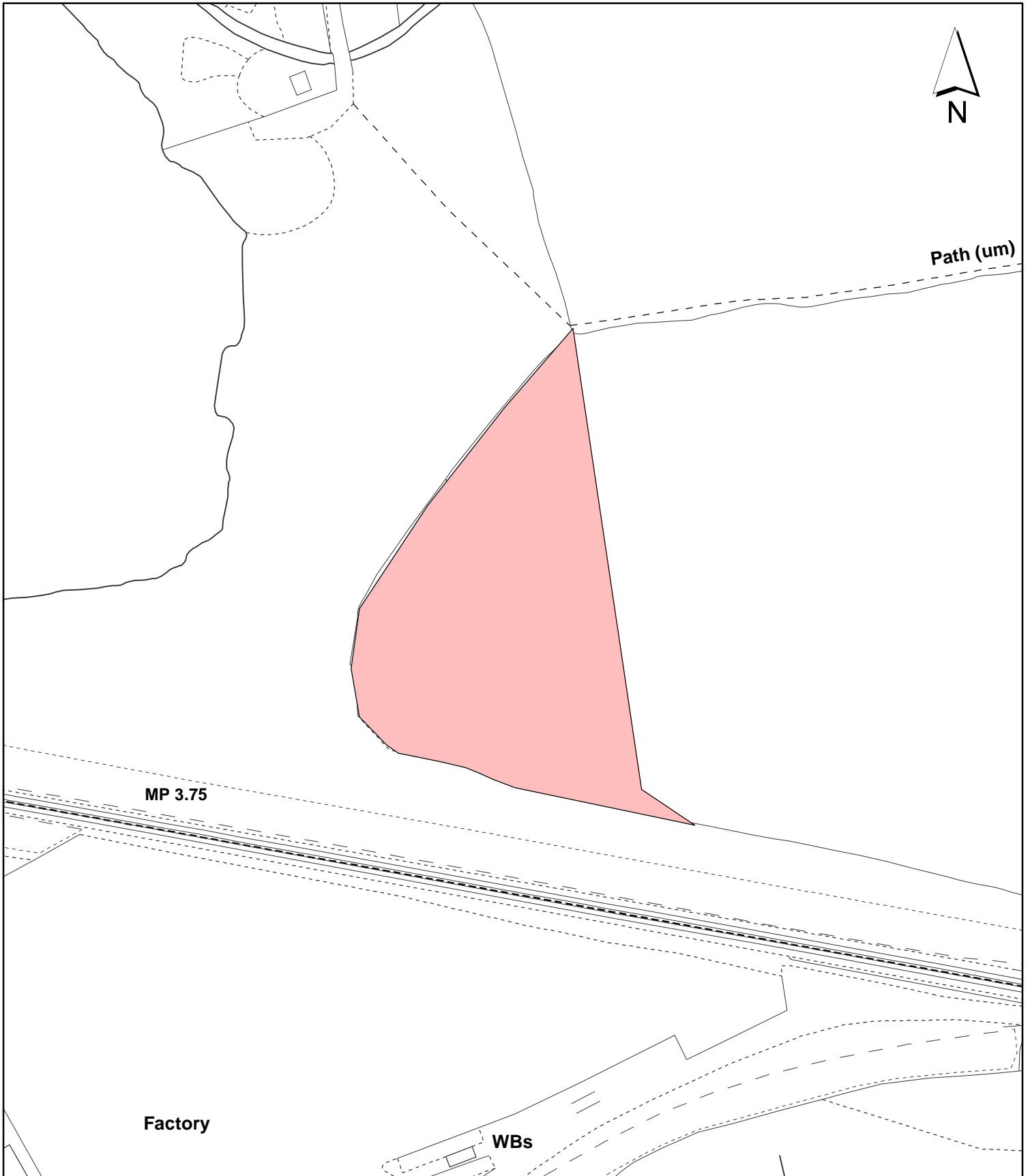
Karl Dafe

Telephone No:

01895 250230

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Notes:

 Site boundary

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Site Address: **Colne Valley Viaduct,
 Wetlands Ecological Mitigation site
 Harvil Road
 Harefield**

**LONDON BOROUGH
 OF HILLINGDON**
 Residents Services
 Planning Section
 Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 250111

Planning Application Ref:
73263/APP/2017/3838

Scale:
1:1,500

Planning Committee:
HS2 Planning Committee

Date:
February 2018

