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GONDAR GARDENS RESERVOIR
GONDAR GARDENS
LONDON
NW6 1QF

Proof of Evidence in Respect of Ecology and Nature Conservation

BY
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APPENDICES
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1. QUALIFICATIONS

1.1. My name is Tim Goodwin. I hold a BSc (Hons) degree in Environmental Biology from Leicester University, an MSc in Environmental Resources from the University of Salford and I am a member of the Institute of Ecology and Environmental Management and the Institution of Environmental Sciences, on whose council I was elected between 1993 and 2000.

1.2. From 1990 to 1991, I was a Director of RPS Clouston, a large environmental consultancy. I previously worked as Development Officer for the Northants Wildlife Trust, followed by a position with the World Conservation Monitoring Centre in Cambridge, a division of the International Union for the Conservation of Nature, Gland, Switzerland. I have carried out consultancy work for the World Wide Fund for Nature (WWF), Greenpeace, the Department for Environment, Food and Rural Affairs and HM Customs and Excise and I was retained as an independent consultant by the latter two Government Departments between 1981 and 2010 to advise on sections of the Wildlife and Countryside Act 1981, the Endangered Species (Import and Export) Act 1976 and Zoo Licensing Act 1981.

1.3. In 1992, I formed Epcad, of which I was one of the principal partners, heading the Ecology section. At the end of 2004 Epcad demerged into two companies with the ecology arm becoming known as Ecology Solutions of which I am one of the main Directors. In addition to inquiry work, Ecology Solutions undertakes all types of environmental planning work, in relation to ecology, with recent clients including BAES, CEMEX, the Hanson Group, Belfast City Airport, SITA, E.on, Fulham Football Club, Prudential, Aviva, Prologis, Helios, Pfizer plc, British Aerospace, Legal and General, Stanhope, Northern Ireland Electricity and a range of national house-builders including Countryside Properties, Persimmon, Taylor Wimpey, Linden, Redrow, Bellway, Robert Hitchins, Fairview and Crest Nicholson.

1.4. I have extensive experience of considering and evaluating development proposals in relation to a range of sensitive ecological sites including statutory designated sites (Ramsar Sites, Special Areas of Conservation [SACs], Special Protection Areas [SPAs] and Sites of Special Scientific Interest [SSSIs]), non-

statutory designated sites (Local Wildlife Sites) and Ancient Woodland. I have particular experience in both the Habitat Regulations and the Habitat and Birds Directives and I have given evidence in a number of high profile cases where consideration of the provisions within the regulations have been paramount. I have prepared numerous mitigation strategies for a range of protected sites and species including Badgers, Reptiles, Great Crested Newts, Dormice, Bats and Water Voles.

1.5. In a London context, I have been involved with a number of schemes where assessment of potential effects arising on non-statutory designated sites, and the requirement for avoidance and mitigation measures therein, have been of paramount importance. I am very familiar with the hierarchy of non-statutory designated sites that are located throughout the London area, and the protection afforded to such sites under planning policy.

1.6. I have been intimately involved in a number of high profile projects relating to the ecology and conservation of various species and habitats, including Leisure Developments, New Settlements, Mineral Workings, Water / Flood Alleviation Schemes, Highway Proposals and Land Restoration Schemes. I have given evidence at numerous section 78 appeals; call-in inquiries, local plan inquiries and I have prepared and given evidence for select committee and in the High Court for judicial review proceedings.

2. BACKGROUND

2.1. I was first contacted by the Appellant, Lifecare Residences Ltd, in October 2018, and was provided with a briefing bundle comprising copies of the planning application, various consultation responses, minutes of the Planning Committee and Statements of Case, together with copies of previous ecological surveys that had been undertaken at the Appeal Site. I was instructed to undertake a review of the work carried out in relation to the ecological matters arising from the proposed development, and to consider whether I could support the appeal proposals.

2.2. The ecological information which was sent to me included several reports produced by James Blake Associates (JBA), including: Phase 1 Habitat Survey Report (dated August 2016) (CD2.36); Reptile Survey Report (dated September 2016) (CD2.37); Reptile Mitigation Strategy Report (October 2017) (CD2.38); Bat Survey Report (dated December 2016) (CD2.40); Breeding Bird Survey Report (dated August 2016) (CD2.41) and Executive Summary (dated June 2017) (CD2.42).

2.3. I also undertook a review of other documents relevant to ecological matters, including: the Landscape Report produced by Andy Sturgeon Landscape and Garden Design (CD2.72); the Ecological 10 Year Management Plan 2019-28 produced by the London Wildlife Trust (LWT) (CD2.43); and the Gondar Gardens Landscape and Ecological Mitigation Review, also produced by the LWT (all dated July 2017) (CD2.39).

2.4. In addition, I undertook a walkover of the Appeal Site on 19 November 2018. Having viewed the site and read the various ecological reports and assessments produced, I can confirm that there is nothing of any significance with regards to the assessment of the ecological baseline in those reports that I would depart from.

2.5. The planning application which is the subject of this appeal was submitted to the London Borough of Camden (LBC) in November 2017 and is described as:

"Partial demolition of the existing reservoir, including the roof and most of the internal structure, and the erection of six 4-6 storey buildings and four 2-3 storey link buildings with common basement levels within the retaining walls of the existing reservoir to include 82 Self-contained extra care apartments (class C2); a 15 bed nursing home (Class C2). Associated communal facilities including reception area, guest suite, lounge, restaurant, café, bar, library, exercise pool, gym, therapy rooms and cinema; Associated support facilities including staff offices, welfare and training spaces, storage, laundry, kitchen, cycle storage, car parking and plant areas and a site-wide biodiversity-led landscaping and planting scheme including external amenity space, drop off area, retention pond and slope stabilisation and associated engineering works."

2.6. The application was refused by LBC on 30 January 2018. The Decision Notice (CD2.75) cites a number of reasons for refusal, of which reasons 1, 2 and 8 include matters pertinent to ecology and nature conservation:

"*1. The proposed development, by virtue of the development on designated Open Space and designated Local Green Space, would result in the loss of, and harm to, land protected because of its local amenity, habitat and biodiversity importance, contrary to policy A2 of the London Borough of Camden Local Plan 2017; Policy 7.18 of The London Plan 2016 and Policies 16 and 17 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.*

2. The proposed development, by virtue of re-landscaping and redeveloping the Site of Nature Conservation, would result in the loss of the protected land and would harm the biodiversity and ecology of the site, contrary to policies A2 (Open Space) and A3 (Biodiversity) of the London Borough of Camden Local Plan 2017, Policy 7.18 of The London Plan 2016 and Policies 16 and 17 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.

8. The proposed development, due to its scale, design, and siting, would result in an unacceptable impact from artificial lighting onto the existing site protected because of its local amenity, habitat and biodiversity importance, contrary to policies A1 (Managing the Impact of development), A3 (Biodiversity) and D1 (Design) of the London Borough of Camden Local Plan 2017."

2.7. A consultation response in relation to the appeal proposals was received from Natural England, the statutory advisor to Government on nature conservation matters, dated 14 November 2017. I note that no concerns or objections were raised to the appeal proposals on the grounds of ecology.

2.8. No consultation response was provided by LWT relating to the appeal proposals; however, their position is outlined in detail in the Landscape and Ecological Mitigation Review. I note that no objections were raised by LWT in relation to the appeal proposals.

2.9. However, concerns regarding ecological matters have been raised in third party letters and representations from local residents. This includes representations submitted on behalf of London, Essex and Hertfordshire Amphibian and Reptile Trust (LEHART), dated 26 November 2017 and Gondar and Agamemnon Residents' Association (GARA), dated 12 December 2017. In addition, a report was produced by Salix Ecology on behalf of London Borough of Camden (dated December 2017), which I understand was commissioned to inform the planning officer's assessment of the development proposals.

2.10. I note that the Appeal Site has been subject to a number of planning applications and appeals since 2011. As outlined in the Statement of Common Ground (SoCG), these are referred to as the 'Reservoir Scheme', the 'Frontage Scheme' and the 'Second Frontage Scheme' respectively. Many of the ecological issues raised regarding the Appeal Scheme are very similar, or indeed identical, to those raised previously in relation to development proposals at this site; notably the 'Reservoir Scheme'. As such, throughout my evidence (where relevant), I also make reference to points raised in relation to these previous schemes.

3. PURPOSE OF MY EVIDENCE

3.1. The Appeal Scheme has been refused by LBC, in part due to concerns regarding impacts on biodiversity and nature conservation. No objections to the proposals have been made by Natural England or the Wildlife Trust, although it is noted that reference to ecological matters has been made by a number of third parties.

3.2. In summary, in my evidence I will demonstrate that:

i) The ecological assessment process has identified all relevant statutory and non-statutory ecological constraints, including designated sites, habitats and protected / notable species, based on a comprehensive suite of ecological surveys;

ii) All potential adverse effects arising upon ecological features as a result of the appeal proposals have been fully assessed, evaluated and mitigated for, such that adverse impacts will be avoided;

iii) Particular regard has been afforded to the non-statutory designation which applies to the Appeal Site (Gondar Gardens Covered Reservoir Site of Borough Grade II Importance for Nature Conservation [SBG2INC]), including the presence of Slow-worms *Anguis fragilis*, with a comprehensive avoidance, mitigation and enhancement package proposed, taking into account recommendations from London Wildlife Trust, that will not only avoid adverse impacts but moreover secure long-term enhancements; and

iv) Issues raised by third parties have been fully considered as part of the assessment and evaluation process above, such that there can be confidence that the package of measures is proven, appropriate and proportional.

3.3. Finally, conclusions are drawn together with a summary of my evidence.

4. RELEVANT PLANNING POLICY

4.1. In order to assess the extent to which the appeal proposals accord with the planning policy framework, I outline below a brief summary for the benefit of the inquiry. Detailed consideration of each of these policies, and the extent to which the appeal proposals accord with them, is set out below.

4.2. The planning policy framework that relates to nature conservation at the Appeal Site is issued at three main administrative levels (national, regional and local), with relevant policies listed as follows:

- National Planning Policy Framework (NPPF) (2018);
- The London Plan (2016) – policy 7.19 and 7.21;
- Draft London Plan (2018) – policies G1, G5, G6 and G7;
- London Borough of Camden Local Plan (2017) – policies A1, A2, A3 and D1; and
- Fortune Green and West Hampstead Neighbourhood Plan 2015 – policies 16 and 17.

National Policy – NPPF (July 2018)

4.3. The National Planning Policy Framework (NPPF) (CD3.1) sets out the Government's requirements for the planning system. A revised version of the NPPF was adopted on 24 July 2018.

4.4. As outlined in paragraphs 10 and 11, at the heart of the NPPF is "*a presumption in favour of sustainable development*".

4.5. Paragraph 170 makes reference to protecting and enhancing sites of biodiversity value "*in a manner commensurate with their statutory status or identified quality in the development plan*", and minimising impacts on and providing net gains for biodiversity. Paragraph 171 also notes that Plans should distinguish between the hierarchy of international, national and locally designated sites. The NPPF states that distinctions should be made between the levels of protection afforded to designated sites depending on where they fit within the hierarchy of international,

nationally and locally designated sites, and depending on their intrinsic ecological value with reference to the DEFRA Circular 06/2005.

4.6. The NPPF also considers the strategic approach which local authorities should adopt with regard to the protection, enhancement and management of green infrastructure, priority habitats and ecological networks, and the recovery of priority species.

4.7. Paragraph 175 of the NPPF comprises a number of principles which local authorities should apply, including:

- refusing planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for;
- refusing planning permission for development resulting in the loss or deterioration of 'irreplaceable' habitats (such as ancient woodland) unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- encouraging opportunities to incorporate biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

4.8. National policy therefore recognises the importance of biodiversity and that, with sensitive planning and design, development and conservation of the natural heritage can co-exist and even result in a net benefit in biodiversity terms.

4.9. As I explain below, I believe that full and detailed consideration has been given to the ecological value of the Appeal Site, and that the measures proposed will protect existing features of ecological value (including those associated with the non-statutory designated site) and fully mitigate for any losses which are unavoidable. Furthermore, as I explain in detail in Sections 6 and 8 below, I believe that the appeal proposals will secure enhancements for biodiversity in the long term.

Regional Policy – The London Plan (March 2016)

4.10. Policies providing guidance on the relationship between development and nature conservation in London are set out in the London Plan (consolidated with alterations since 2011; CD3.3). The plan is the overall strategic plan for London and sets out an integrated framework for the development of the capital to 2036.

4.11. There are two policies within the London Plan which are relevant to ecology and nature conservation (policies 7.19 and 7.21), while a number of other policies refer to features which proposals may include to deliver biodiversity enhancements (such as policy 2.18 [green infrastructure]).

4.12. Policy 7.19 refers to 'Biodiversity and Access to Nature'. It states that development should make a positive contribution to the protection, enhancement, creation and management of biodiversity, wherever possible. Development should also prioritise achieving targets in biodiversity action plans (BAPs) or improve access in areas deficient in accessible wildlife sites. The policy states that development should "*not adversely affect the integrity of European sites and be resisted where they have significant adverse impact on European or nationally designated sites or on the population or conservation status of a protected species or a priority species or habitat identified in a UK, London or appropriate regional BAP or borough BAP*".

4.13. Policy 7.19 also makes reference to the level of protection that should be afforded to statutory and non-statutory designated sites, in accordance with their position in the hierarchy of such sites. In relation to non-statutory sites, and specifically Sites of Borough Importance for Nature Conservation, the policy states that protection should be afforded at a level proportionate to the importance of the site in question.

4.14. Given the non-statutory designation afforded to the Appeal Site, specific and detailed consideration has been afforded to the baseline ecological value of this site (in terms of both habitats and species), and the effects likely to arise as a result of the Appeal Scheme. As outlined in the ecological reports produced by JBA, a comprehensive mitigation and enhancement strategy is to be delivered as an integral part of the appeal proposals which will mitigate fully for losses and

moreover deliver enhancements compared to the existing situation. On this basis, the appeal proposals are compliant with policy 7.19.

4.15. Policy 7.21 refers to 'Trees and Woodlands' and states that existing trees of value should be retained and any loss as the result of development should be replaced following the principle of 'right place, right tree' whereby the size, species preferences and ecological values are taken into consideration. Where appropriate the planting of additional trees should be included at new developments, particularly large-canopied species.

4.16. The Appeal Site primarily comprises grassland habitats, with semi-mature trees and scrub present along the boundaries. The vast majority of trees are to be retained under the development proposals and protected throughout construction, with new native tree and scrub planting proposed to enhance these features. On this basis, the appeal proposals are compliant with policy 7.21.

Emerging Regional Policy – Draft London Plan

4.17. A new draft of the London Plan was published for consultation from December 2017 to March 2018. On 13 August 2018, the latest draft of the new London Plan was published with a number of suggested minor amendments (CD3.4).

4.18. There are four key policies within the draft London Plan which relate to biodiversity and ecology: policy G1 (green infrastructure); policy G5 (urban greening); policy G6 (biodiversity and access to nature); and policy G7 (trees and woodland).

4.19. In relation to non-statutory designated sites (which is relevant to the consideration of the Appeal Scheme), Policy G6 states:

"Where harm to a SINC is unavoidable, and where the benefits of the development proposal clearly outweigh the impacts on biodiversity, the following mitigation hierarchy should be applied to minimise development impacts:

1) *Avoid damaging the significant ecological features of the site*
2) *Minimise the overall spatial impact and mitigate it by improving the quality or management of the rest of the site*

3) Seek appropriate compensation off-site based on biodiversity offsets, or other appropriate metric"

4.20. As I explain below, the approach adopted by the Appellant in relation to the development proposals fully accords with this policy. Habitats of greater ecological value (both in terms of their biodiversity and the opportunities that they provide for reptiles) in the eastern part of the Appeal Site are to be retained, protected and enhanced under the appeal proposals. A comprehensive reptile translocation strategy is also proposed in order to safeguard Slow-worms from harm which could otherwise arise. The footprint of the scheme has sought to minimise adverse effects, and a comprehensive, long-term management plan towards the ongoing management of habitats is to be implemented in accordance with recommendations provided by the Wildlife Trust. On this basis, in my view it is clear that potential adverse impacts arising from the development proposals on the interest of the SINC will be fully mitigated, to the extent that biodiversity benefits are likely to arise compared to the existing situation of an ongoing decline in ecological value.

4.21. Policy G6 also states that "*development proposals should aim to secure net biodiversity gain and be informed by the best available ecological information which should be considered from the start of the development process*".

4.22. The appeal proposals have been informed by a comprehensive suite of ecological survey work undertaken by JBA to ensure a robust baseline is understood. Updated surveys have been undertaken in 2018, which provide further evidence to support the existing baseline.

Local Policy – London Borough of Camden Local Plan (July 2017)

4.23. The London Borough of Camden Local Plan (CD3.6) was adopted on 3 July 2017 and contains a number of policies of relevance to ecology and nature conservation in the Borough.

4.24. Policy A1 relates to 'Managing the impact of development' and is primarily concerned with ensuring that standards of amenity are protected from development. Whilst a number of factors are raised that are of relevance to

ecology – for instance, artificial lighting levels, noise and vibration – it is apparent that this policy relates more to amenity factors than to biodiversity and nature conservation.

4.25. Policy A2 is concerned with open space, and outlines the approach adopted by the Council in relation to protection of existing open space, and the provision of new and enhanced open space. The policy states that the Council will "*protect non-designated spaces with nature conservation, townscape and amenity value, where possible*", and outlines measures which the Council considers necessary to ensure that development does not put unacceptable pressure on the Borough's network of open spaces.

4.26. As with policy A1 above, it is evident that policy A2 relates primarily to the importance of open spaces in human terms, as opposed to their significance in biodiversity and nature conservation terms (which is covered under policy A3). These matters are therefore considered in detail by my colleagues, Mr Phillips and Ms Reynolds, in their proofs of evidence. As I explain below, detailed consideration has been afforded to the non-statutory designation which applies to the Appeal Site, with the most valuable area to be protected and enhanced through ongoing management to deliver ecological benefits.

4.27. Policy A3 relates to biodiversity. The policy states that the Council will protect nature conservation sites and safeguard protected and priority habitats and species, and that permission will be granted for development unless it would "*directly or indirectly result in the loss or harm to a designated nature conservation site or adversely affect the status or population of priority habitats and species*".

4.28. Whilst the appeal proposals will necessarily result in some losses to a non-statutory designated site, habitats are to be retained, protected and enhanced under the appeal proposals, with new species-rich habitats proposed. A comprehensive package of measures will also be delivered to ensure that the value of the site is secured in the long-term. Furthermore, a package of measures will safeguard the population of Slow-worms and ensure that optimal habitats are provided, and maintained, within the site for the benefit of this isolated population. The measures proposed, which are based on recommendations from the LWT,

go further than mitigating for harm, and will ensure that the biodiversity value of the Appeal Site will be enhanced post-development.

4.29. Policy A3 states that development shall be assessed against its ability to realise benefits for biodiversity through the layout, design and materials, proportionate to the scale of development proposed. The policy also states that the Council will: seek to improve opportunities to experience nature; require demolition and construction to be planned to avoid disturbance to habitats and species and prevent the spread of invasive species; secure management plans where appropriate to ensure that nature conservation objectives are met; and work with a number of organisations including the LWT and local nature conservation groups to protect and improve open spaces and nature conservation in Camden.

4.30. The appeal proposals have been designed to maximise biodiversity value, not only within the 'wild' parts of the site but as part of the new development itself, through the use of green and brown roofs, and the installation of bat and bird boxes. This approach takes on board recommendations outlined by the LWT.

4.31. Notwithstanding that the proposals are for residential care apartments and facilities, and that residents are therefore more likely to have limited mobility, access is not proposed into the eastern part of the site to minimise the potential for harm and disturbance to reptiles. However, given the landscaping proposed (within the new development and to the east) residents shall clearly be able to experience nature at the site, which at present is not open to public access.

4.32. Detailed consideration has been afforded to avoidance and mitigation of potential impacts to habitats and species during construction, with a Construction and Environmental Management Plan (CEMP) produced to set out measures which are to be implemented throughout the construction phase. Moreover, an Ecological Management Plan has been produced by the LWT, which outlines the key principles and objectives guiding the long-term management and monitoring of the site to maximise its inherent biodiversity interest. Whilst the final content of these documents are proposed to be secured via condition, it is evident that these aspects have been fully considered.

4.33. Policy A3 also refers to trees and vegetation. The policy states that the loss of trees of ecological value shall be resisted, and that retained trees will need to be protected during the demolition and construction phases of development. The policy also states that developments will be expected to incorporate additional trees and vegetation where possible.

4.34. The appeal proposals will retain the vast majority of trees and scrub within the site, which will be protected throughout the construction period (as outlined in the CEMP). The provision of new native planting will enhance the value of these features and deliver benefits compared to the existing situation.

4.35. It is therefore clear that the appeal proposals comply with policy A3 in all respects. Further details of the measures summarised briefly above are given in Section 6 below.

4.36. Policy D1 relates to design. This policy primarily relates to architectural and design matters, although I note that reference is made to ensuring that development "*responds to natural features and preserves gardens and open space*", and that opportunities for greening are maximised.

4.37. Delivery of measures such as green and brown roofs to maximise biodiversity value, and the design and management of open space in the eastern, northern and southern parts of the Appeal Scheme in my view illustrates the extent to which the Appellant has sought to meet the requirements under this policy. These matters are discussed in more detail in Ms Reynolds' proof of evidence.

Supplementary Local Policy - Camden Planning Guidance (CPG) Biodiversity

4.38. Further advice and information about how policies in the Camden Local Plan are applied is provided in Camden Planning Guidance (CPG) documents. It is understood that the CPGs are Supplementary Planning Documents (SPDs), the content of which is an additional material consideration for planning.

4.39. CPG Biodiversity (CD3.21) was adopted by the Council on 26 March 2018 and relates specifically to policy A3 in the Camden Local Plan.

4.40. In relation to designated sites, the CPG states (at paragraph 2.10) that "*these sites should receive special attention proportionate to the weight afforded by these designations*". The CPG notes that "*developers will be required to assess the impact of proposals on designated sites and the areas adjacent to or surrounding protected sites*".

4.41. Reference is made to statutory and non-statutory designated sites which are located within Camden, with SINC citations included at Appendix 5 of the CPG. This includes Gondar Gardens Covered Reservoir Site of Borough Grade 2 Importance for Nature Conservation (see below).

4.42. For clarity, as the London Wildlife Sites Board has explained[1], non-statutory designated sites in London may be categorised as:

- Sites of Metropolitan Importance – described as "*those which contain the best examples of London's habitats, sites which contain particularly rare species, rare assemblages of species or important populations of species, or sites which are of particular significance in otherwise heavily built-up areas of London*";
- Sites of Borough Importance – described as "*sites which are important on a borough perspective in the same way as Metropolitan sites are important to the whole of London*"; or
- Sites of Local Importance – described as "*one which is, or may, of particular value to people nearby (such as residents or schools*)".

4.43. Sites of Borough Importance are typically separated into those of greater value (Grade 1) and those of lower value (Grade 2).

4.44. Table A of the CPG outlines a 'Five-point Mitigation Hierarchy' which the Council will use to assess planning applications. The stages include the planning, construction and post-completion stages of a development, and are separated into: information, avoidance, mitigation, compensation and enhancements.

[1] LWSB (March 2013). *Advice Note – Process for selecting and confirming Sites of Importance for Nature Conservation (SINCs) in Greater London*

4.45. As set out below, it is clear that the work undertaken by the appellant in considering a development at the Appeal Site has followed this approach, from completion of comprehensive baseline surveys, assessing the development proposals, integrating avoidance and mitigation measures and also proposing ongoing management that will deliver significant long-term enhancements.

4.46. I note that reference is made throughout the CPG to specific details being secured by condition. For instance, paragraph 4.13 states that "*a lighting strategy or specific lighting may be secured by condition*", whilst paragraph 4.22 notes that measures to protect existing biodiversity may also be secured by condition (e.g. a Construction Ecological Management Plan). In my experience, securing details in this manner is entirely appropriate and well-established in practice.

4.47. Reference is also made to maintenance and monitoring plans for sites with nature conservation importance, which may also be secured by condition. Paragraph 4.27 notes that plans should "*span a period of up to 5 years minimum (10 year plans are required for more important sites e.g. SSSIs, LNR, Borough & Metropolitan grade SINCs) or those with particularly sensitive species*" (Note: It seems that there is a typographical error in this text and that the closing bracket should come later in the sentence, after the word "species"; it seems that the intention is to require 10-year plans for particularly sensitive species as well).

4.48. As noted in my evidence below, an Ecological Management Plan for the site has been produced by the LWT. This has been updated by JBA in 2018 with a 20-year management and monitoring strategy proposed. As such this not only complies with the CPG but in fact goes further than the 10-year period outlined in the document.

4.49. Appendix 2 of the CPG includes a number of examples of habitat creation and restoration measures, such as green and brown roofs, the provision of bat and bird boxes, lighting, new wetlands and provision of new species-rich habitats. I note that these measures are proposed as part of the Appeal Scheme, as described in detail below.

Local Policy – Fortune Green and West Hampstead Neighbourhood Plan (March 2015)

4.50. There are two policies within the Fortune Green and West Neighbourhood Plan (CD3.7) which are of relevance to biodiversity and nature conservation.

4.51. Policy 17 states that development should protect and improve, where appropriate, existing green/open space. The wording of the policy itself relates primarily to recreation and amenity, rather than ecology or nature conservation, although the supporting text clarifies that these areas include sites of nature conservation interest and green corridors.

4.52. The appeal proposals will retain and protect areas of open space within the site, provide new features such as green roofs and a sustainable drainage system, and will deliver management to ensure that the biodiversity value of the site is maintained and moreover enhanced. As such the proposals comply with policy 17, insofar as it relates to ecology and nature conservation matters.

4.53. Policy 18 is concerned with the protection of trees and provision of new planting to mitigate for losses. As explained above, the appeal proposals will retain the vast majority of existing trees and will result in a net increase in native tree and scrub cover compared to the existing situation.

4.54. I also note that policy 16 lists a number of areas of local green space in the Neighbourhood Plan area, which include the Gondar Gardens Reservoir site (d).

Summary

4.55. As I explain in more detail in my evidence below, a comprehensive package of avoidance, mitigation and enhancement measures form an integral part of the Appeal Scheme. These will ensure that adverse impacts to designated sites, habitats and protected / notable species are avoided. Moreover, net benefits to nature conservation will be delivered through appropriate design and the implementation of a long-term management plan. On this basis, the Appeal Scheme fully accords with relevant planning policy.

5. RELEVANT LEGISLATION

5.1. The presence of protected species within the Appeal Site – specifically, bats (commuting and foraging), birds and reptiles (Slow-worms) – means that certain laws are engaged.

5.2. I should make clear that the non-statutory designation which pertains to the Appeal Site (Gondar Gardens Covered Reservoir SBG2INC) is not afforded any legislative protection, although it is conferred a level of protection under planning policy as outlined above.

The Conservation of Habitats and Species Regulations 2017

5.3. Legislative protection is provided for all species listed as a European Protected Species (EPS) on Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the 'Habitats Regulations'). All bat species are listed as EPS. Surveys have identified that bats use the Appeal Site (albeit for commuting and foraging only).

5.4. Regulation 43 states that:

43(1) A person who –

(a) deliberately captures, injures or kills any wild animal of a European protected species;

(b) deliberately disturbs wild animals of any such species;

(c) deliberately takes or destroys the eggs of such an animal; or

(d) damages or destroys a breeding site or resting place of such an animal,

is guilty of an offence.

43(2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely –

(a) to impair their ability –

i. to survive, to breed or reproduce, or to rear or nurture their young, or

ii. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or

(b) to affect significantly the local distribution or abundance of the species to which they belong."

5.5. As I explain in detail in Section 6 below, no evidence of roosting bats has been recorded within any buildings, structures or trees present at the Appeal Site during work undertaken by JBA between 2010 and 2018. It is therefore clear that the development proposals will not result in adverse impacts to roosting bats and a bat licence from Natural England will not be required.

Wildlife and Countryside Act 1981

5.6. Section 1 of the Wildlife & Countryside Act 1981 (as amended) is concerned with the protection of wild birds. With certain exceptions all wild birds and their eggs are protected from intentional killing, injuring and taking; and their nests, whilst being built or in use, cannot be taken, damaged or destroyed.

5.7. Schedule 1 of the Wildlife & Countryside Act 1981 is a list of the nationally rare and uncommon breeding birds for which all offences carry special (i.e. greater) penalties. These species also benefit from additional protection whilst breeding, as it is also an offence to disturb adults or their dependent young when at the nest. As such, Schedule 1 birds receive full protection under the Wildlife & Countryside Act 1981 with those listed in Part I being protected at all times and those listed in Part II during the close season only.

5.8. Surveys undertaken at the Appeal Site have not recorded the presence of any Schedule 1 species and given the habitats present, it is considered that none are likely to be present.

5.9. Section 9 of the Wildlife and Countryside Act 1981 is concerned with the protection of certain wild animals, which are listed in Schedule 5 of the Act. It is an offence to intentionally or recklessly kill, injure or take (capture) any wild animal listed on Schedule 5. It is also an offence to possess or control a Schedule 5 species; intentionally or recklessly damage, destroy or obstruct access to any structure or place which a Schedule 5 species uses for shelter or protection, or

disturb animals whilst they are using such a place; or sell, offer for sale or advertise such a species.

5.10. All bat species in the UK are listed on Schedule 5 of the Wildlife and Countryside Act 1981. Slow-worms are also listed on Schedule 5, but are afforded partial protection (from killing, injuring, taking and sale only).

5.11. Section 14 of the Act relates to the introduction of new species. In relation to plant species, it is an offence to plant or otherwise cause to grow in the wild any plant which is included on Part II of Schedule 9.

5.12. Virginia Creeper *Parthenocissus quinquefolia* is listed on Schedule 9 of the Wildlife and Countryside Act 1981.

6. BASELINE CONDITIONS AND ASSESSMENT

6.1. In this section of my evidence I summarise the survey work that has been undertaken at the Appeal Site to ascertain the existing baseline situation. Subsequently, I consider in more detail the potential impacts that would arise from the proposed development, and any avoidance, mitigation and enhancements which may be required.

6.2. The Appeal Site has been subject to an extensive suite of ecological surveys undertaken over a number of years by JBA. The methodology and findings of surveys are set out in detail in the series of reports which accompanied the planning application. The following surveys were undertaken:

- Desk study to identify any existing records of wildlife utilising the Appeal Site or surrounding area, and to identify any designated sites within or around the Appeal site (June 2016) (CD2.36);
- Extended Phase 1 habitat survey to identify and map the habitat types present, compile a representative species list for each habitat, identify non-native invasive species and undertake an initial assessment for protected and notable faunal species (July 2016) (CD2.36);
- Specific bat surveys, including:
    - Internal and external inspection of existing buildings and structures, including the covered reservoir (August 2014, July 2016 and December 2016), disused control station (August 2016) and electrical substation (September 2016) (CD2.40);
    - Ground-level assessment of trees to assess their potential to support roosting bats (July 2016) (CD2.36);
    - Dusk and dawn bat activity surveys (July, August and September 2016) (CD2.40); and
    - Automated detector surveys (July, August and September 2016) (CD2.40).
- Specific Badger survey for setts and other evidence of Badgers within the Appeal Site (July 2016) (CD2.36);
- Specific bird surveys to identify bird species utilising habitats within the Appeal Site for nesting or foraging (July and August 2016) (CD2.41); and

- Specific reptile surveys to establish the presence or likely absence of this group at the Appeal Site (July to September 2016) (CD2.37).

6.3. Furthermore, I understand that JBA have had a long involvement with the Appeal Site (since 2010), and that in several instances further surveys were undertaken prior to those listed above. Indeed, this is noted in various Survey Reports produced by JBA. It is therefore evident that a very substantial volume of ecological survey work has been undertaken at the Appeal Site, over a number of years, and as such the ecological baseline at this site is well understood.

6.4. Since the planning application was submitted, further ecological survey work has been undertaken by JBA in 2018. The purpose of undertaking updated surveys was to establish a fully up-to-date baseline, and to ascertain whether there had been any material changes to the ecological situation on the site.

6.5. The following updated surveys were completed:

- Updated extended Phase 1 habitat survey, incorporating updated desk study exercise (July 2018);
- Updated bat surveys
    - Updated internal and external inspections of existing buildings and structures, including the covered reservoir, control station and electrical substation (July 2018);
    - Updated ground-level assessment of trees to assess their potential to support roosting bats (July 2018);
    - Updated bat activity surveys (July, August and September 2018); and
    - Automated detector surveys (July, August and September 2018).
- Updated Badger survey (undertaken in conjunction with the Phase 1 survey) (July 2018);
- Updated bird surveys (July and August 2018); and
- Updated reptile surveys (July and August 2018).

6.6. The methodology and findings of the updated survey work by JBA are set out in the following reports:

- Updated Phase 1 Habitat Survey Report (July 2018) (CD2.79);
- Internal Inspection of Reservoir for Bat Use (July 2018) (CD2.79);
- Bat Survey Report (November 2018) (CD2.79);
- Breeding Bird Survey Report (October 2018) (CD2.79); and
- Reptile Survey Report (September 2018) (CD2.79)

6.7. I also undertook a walkover of the Appeal Site on 19 November 2018. The primary purpose of undertaking this visit was to undertake an independent assessment of the Appeal Site, and to consider whether there were any factors of material significance where my view as a professional ecologist might differ from that of JBA regarding the ecological value of the Appeal Site. I can confirm that I found no reason to disagree with the findings of the survey and assessment work undertaken by JBA on this site.

6.8. As such I consider that the information summarised in this proof of evidence is up to date and is in line with best practice, allowing the baseline situation to be established against which the potential effects of the appeal proposals may be assessed.

6.9. The following section summarises the findings of the assessment work undertaken at the Appeal Site, taking into consideration the 2016 surveys and the extent to which updated work in 2018 has identified any material changes to the baseline.

Designated Sites

Statutory Designated Sites

6.10. There are no statutory designated sites of nature conservation interest within or adjacent to the Appeal Site. The closest such site is Westbere Copse Local Nature Reserve (LNR), located approximately 235 metres to the west of the Appeal Scheme. The desk study confirmed that there are no Sites of Special Scientific Interest (SSSI) within 2km of the Appeal Scheme, and indeed no European / international designated sites (Special Protection Areas [SPAs], Special Areas of Conservation [SACs] or Ramsar sites) within 7km.

Non-statutory Designated Sites

6.11. The Appeal Site incorporates a non-statutory designated site: Gondar Gardens Covered Reservoir Site of Borough Grade 2 Importance for Nature Conservation (SBG2INC).

6.12. This designation is also referred to as a Site of Importance for Nature Conservation (SINC), presumably for brevity, although it is important to note that the term 'SINC' includes a variety of non-statutory designated sites, from those of metropolitan (London-wide) importance to those of local importance. For the avoidance of doubt, in my evidence I have used the term 'BG2 SINC' for simplicity and accuracy.

6.13. The reasons for the designation of the BG2 SINC, as included in the citation for the site (a copy of which is included at Appendix 1 of my evidence), are these:

"*This undisturbed covered reservoir is vegetated mostly with neutral grassland dominated by false oat-grass (Arrhenatherum elatius), with a moderate diversity of common wild flowers. Spiked sedge (Carex spicata), which is uncommon in Camden, is present in reasonable quantity. Typical grassland butterflies, including common blue and meadow brown, are present. The site is the only known location in Camden for slow-worms. Pipistrelle bats have been recorded flying over the site.*

There are small areas of woodland, mostly of sycamore (Acer pseudoplatanus) and ash (Fraxinus excelsior), with hawthorn (Crataegus monogyna) and plum (Prunus domestica) below, on the slopes at the eastern and western ends. This provides habitat for common birds."

6.14. The non-statutory designated site is approximately 1.1 hectares in size and includes the majority of the Appeal Site, except for a strip of land along the western boundary (and in the south-western corner). The relationship between the Appeal Site and BG2 SINC is shown at Appendix 2.

6.15. As outlined in Table 3 of the Phase 1 Habitat Survey Report (CD2.36), there are 22 other non-statutory designated sites within 2km of the Appeal Site, with the

nearest such site being Hampstead Cemetery Site of Borough Grade 1 Importance for Nature Conservation (SBG1INC), located approximately 125m to the north of the Appeal Site at its closest point.

6.16. The locations of these other non-statutory designated sites in relation to the Appeal Site are shown at Figure 3 of the Phase 1 Habitat Survey Report (CD2.36).

6.17. The updated desk study undertaken in 2018 (included in the Updated Phase 1 Habitat Survey Report; CD2.79) did not identify any material changes in respect of statutory or non-statutory designated sites.

Ecological Features of the Appeal Site

6.18. The following habitats or features were identified within the Appeal Site in 2016:

- Semi-improved neutral grassland;
- Rough grassland with tall ruderal vegetation;
- Trees and shrubs;
- Scrub;
- Hardstanding; and
- Buildings / structures.

6.19. The updated habitat survey undertaken in 2018 confirmed that each of these habitats remain present at the Appeal Site. However, it was noted that tall ruderal vegetation has encroached into the grassland in the south-western corner of the Appeal Site, resulting in a reduction in the biodiversity value of this habitat. It was also noted that Virginia Creeper (a non-native invasive species listed in Schedule 9 of the Wildlife and Countryside Act 1981) has further encroached into the Appeal Site from the north since 2016.

6.20. I also note that the 2018 survey did not record the presence of Spiked Sedge *Carex spicata* anywhere within the Appeal Site boundary. This accords with the findings of the 2016 survey. Whilst this species was recorded on site by JBA in 2013, it is likely that the encroachment of scrub and tall ruderal vegetation in the south-east of the Appeal Site may have led to the loss of this species.

6.21. The locations of these habitat types and features (as of 2018) are illustrated at Figure 5 of the Updated Phase 1 Habitat Survey Report (CD2.79). Further information is provided in the Target Notes table on pages 26 to 33 of the document, with descriptions of each habitat and its floristic diversity set out in paragraphs 4.1 to 4.9.

Wildlife Use of the Appeal Site

6.22. As explained in detail in the reports which accompanied the planning application, the following protected species / groups were recorded within the Appeal Site in 2016:

- Foraging and commuting bats;
- Nesting and foraging birds;
- Common reptiles (Slow-worms);
- Hedgehog *Erinaceus europaeus*; and
- Invertebrates.

6.23. Updated work undertaken in 2018 confirmed that each of these species / groups remain present at the Appeal Site. A summary of how they use the Appeal Site is provided below.

Bats

6.24. No evidence of the presence of roosting bats within any buildings or structures at the Appeal Site has been recorded during surveys undertaken by JBA. Whilst a covering of dense Ivy *Hedera helix* was recorded on one structure (the electrical substation), this building is considered to have negligible potential for roosting bats. Updated work in 2018 confirmed that there has been no material change in this regard.

6.25. I note that after the surveys were completed, appropriate measures were taken to secure the buildings on the Appeal Site to prevent bats from entering them. As a result, it is highly unlikely that a bat roost would become established in future.

6.26. A number of mature and semi-mature trees along the southern and eastern boundaries of the Appeal Site were found to offer potential opportunities for roosting bats, in the form of a covering of dense Ivy, cracks and woodpecker holes. However, no evidence to indicate the presence of a roost was recorded during activity survey work by JBA.

6.27. Bat activity and static detector surveys undertaken by JBA in 2010, 2014, 2016 and 2018 recorded the use of the Appeal Site by foraging and commuting bats. Activity levels were recorded to be low, with the vast majority of registrations (calls) pertaining to Common Pipistrelle *Pipistrellus pipistrellus*, occasional registrations of Soprano Pipistrelle *Pipistrellus pygmaeus* and Noctule *Nyctalus noctula* and individual / very infrequent registrations of Nathusius' Pipistrelle *Pipistrellus nathusii*, Leisler's *Nyctalus leisleri*, Serotine *Eptesicus serotinus* and *Myotis* species.

6.28. Based on the survey data it is evident that whilst the Appeal Site is used by foraging and commuting bats, it is not likely to be of particular significance or importance to local bat populations.

6.29. Full details of the methodology and findings of the updated 2018 survey work by JBA in respect of bats are set out in the reports included at CD2.79.

Nesting Birds

6.30. Habitats present within the Appeal Site are considered to offer nesting and foraging opportunities for a range of common bird species.

6.31. Updated survey work undertaken by JBA in 2018 recorded a total of 17 species within or flying over the Appeal Site. Surveys recorded three species that were notable on account of them either being Priority species (in a UK context or on the London Biodiversity Action Plan [BAP]) or listed on the Red List of the Birds of Conservation Concern: Dunnock *Prunella modularis* within the Appeal Site, and Herring Gull *Larus argentatus* and Swift *Apus apus* flying over the site. Surveys undertaken in 2016 also identified the presence of House Sparrow *Passer domesticus*, Starling *Sturnus vulgaris* and Song Thrush *Turdus philomelos*.

6.32. All of the notable species recorded in 2016 and 2018 are common and widespread species, both in a regional and national context.

6.33. No Schedule 1 species were recorded during the survey work undertaken in either 2016 and 2018.

6.34. Full details of the methodology and findings of the updated 2018 bird survey by JBA are set out in the report included at CD2.79.

Common Reptiles

6.35. Survey work undertaken by JBA has confirmed the presence of a population of Slow-worms within the Appeal Site. Surveys undertaken in 2016 identified a maximum count of 13 adults during any single survey visit. In line with guidelines produced by Froglife[2], a copy of which is included at Appendix 3 of my evidence, it was assessed that the Appeal Site supported a 'good' population of this species.

6.36. Updated survey work undertaken in 2018 confirmed that the Slow-worm population remains present at the Appeal Site. This survey identified a maximum count of five adults during any single survey visit, which accords to a 'good' population in line with the guidance. The majority of Slow-worms were recorded along grassy banks to the south and east of the Appeal Site.

6.37. The full methodology and findings of the updated 2018 reptile survey by JBA are set out in the report included at CD2.79 of my evidence.

6.38. As noted in paragraphs 3.4 and 4.1 of the Reptile Survey Report, the level of survey effort employed for reptiles was significantly higher than that recommended in the Froglife guidelines.

[2] Froglife is a national wildlife conservation charity concerned with the conservation of amphibian and reptile species in the UK. The guidelines produced by Froglife (Advice Sheet 10) are commonly used by professional ecologists and conservation organisations to inform reptile survey and assessment work.

6.39. A total of 130 artificial refuges were deployed throughout all suitable reptile habitat within the Appeal Site (approximately 1.2 hectares in total, including all habitats). This equates to approximately 108 refuges per hectare. However, the population assessment methodology as set out in the Froglife guidelines is based on the maximum number of adults seen by one surveyor in one day, at a refuge density of up to 10 per hectare.

6.40. On the basis that refuge density was more than a factor of 10 greater than that set out in the guidance, it is clear that the assessment of population size is very robust indeed, to inform the scope of the required avoidance and mitigation strategy (see below).

Hedgehogs

6.41. Surveys undertaken in 2018 (as identified in the Updated Phase 1 Habitat Survey report; CD2.79) recorded evidence of Hedgehogs in the form of droppings along the northern boundary adjacent to residential gardens. Areas of grassland, scrub and ruderal vegetation provide suitable habitats for this species and provide a degree of connectivity between the residential gardens which adjoin the Appeal Site. Hedgehogs are a Priority Species and also a London BAP Priority Species.

Invertebrates

6.42. The habitats present within the Appeal Site are likely to provide opportunities for an assemblage of common and widespread invertebrate species. Log piles and standing dead wood in the southern part of the Appeal Site provide potential opportunities for Stag Beetles *Lucanus cervus*, although this species has not been formally recorded at the Appeal Site.

Assessment

6.43. A detailed assessment of the potential effects of the appeal proposals on ecological features is set out in the Executive Summary report (CD2.42). This document summarises the baseline information from the various habitat and species surveys, assesses the potential effects of the appeal proposals, and identifies the measures required to avoid and mitigate for adverse effects.

6.44. Further details of the proposed avoidance, mitigation and enhancement measures are set out in further documents submitted in support of the planning application.

6.45. To provide clarity for the benefit of the Inspector and the Inquiry, and in light of the updated work undertaken in 2018, in this section I summarise the assessment work undertaken for each of the key ecological features and explain the mitigation measures proposed as part of the Appeal Scheme.

BG2 SINC designation

6.46. The designation BG2 SINC has been given to the site on account of the presence of these ecological features: neutral grassland habitats; woodland / tree habitats; and Slow-worms. I deal with each of these in turn.

Habitats

6.47. The principal habitat which will be affected by the appeal proposals is semi-improved neutral grassland. However, whilst I note that surveys have identified parts of the Appeal Site as supporting a grassland sward of reasonable diversity and value, other areas are dominated by rough grasses and tall ruderal vegetation, which restricts the biodiversity value. Indeed, it is clear from the 2018 survey that there has been encroachment of tall ruderal vegetation and scrub into grassland habitats, which over time will reduce the ecological value of this habitat.

6.48. I note that the BG2 SINC citation refers to the presence of Spiked Sedge within the Appeal Site, noting that this is "*uncommon in Camden*". Whilst JBA recorded this species to be present within the Appeal Site in discrete locations in 2013, Spiked Sedge was not recorded in either 2016 or 2018. Whilst this species could persist (e.g. in the seed bank), it is most likely to have been lost from the BG2 SINC, potentially as a result of scrub encroachment in the south-eastern part of the Appeal Site.

6.49. On this basis, it is clear from habitat surveys undertaken at the Appeal Site that whilst grassland within the BG2 SINC is of value, in the context of a London Borough, the true biodiversity value of this habitat is at present limited and, in the absence of active intervention through management, is likely to decline over time.

6.50. Whilst they are of lower significance in terms of the non-statutory designation afforded to the Appeal Site, the vast majority of the trees and scrub along the northern, eastern and southern boundaries of the Appeal Site are to be retained. Losses shall be restricted to the south-western part of the site only, which will be more than offset through extensive areas of new native tree and scrub planting and the implementation of biodiversity management (see below).

6.51. As outlined in the Executive Summary (page 8), overall the appeal proposals will result in the area of grassland within the Appeal Site being reduced by 31.6% compared to the existing situation (including land both within and beyond the boundary of the land that is the subject of the non-statutory designation). To be clear, 33% of existing grassland within the Appeal Site, located in the east, will be retained and protected throughout the construction phase; an area equivalent to 21.6% of the existing grassland will be temporarily lost and subsequently reinstated on newly created contours around the proposed building; and an area equivalent to 13.8% of existing grassland will be lost and shall subsequently be delivered in the form of green roofs.

6.52. Although the proposals will result in a reduction in the overall *quantity* of grassland within the Appeal Site, the *quality* of new habitats within the Appeal Site, in biodiversity terms, will be significantly enhanced compared to the existing situation. As explained in detail in section 2.4.3 of the Landscape Report produced by Andy Sturgeon Landscape and Garden Design (CD2.72), a comprehensive ecological strategy has been developed, in conjunction with the LWT, to maximise biodiversity benefits, both in terms of the diversity of the habitats present and also for the protected and notable species that they support (see below).

6.53. The appeal proposals will provide the following habitats at the Appeal Site:

- Retained and enhanced grassland in the eastern part of the Appeal Site, including areas managed specifically as an ecotone[3] between grassland and trees/scrub providing optimal habitats for Slow-worms, and the removal of invasive species (e.g. Virginia Creeper);
- Restored species-rich grassland on graded slopes, using topsoil to ensure optimal establishment of this habitat;
- Retained and enhanced trees and scrub along the northern, eastern and southern boundaries of the Appeal Site, including new native planting;
- New retention pond to the east of the building, with native marginal and aquatic planting, providing a wetland habitat not currently present at the Appeal Site and which will deliver opportunities for a range of species including invertebrates;
- Green and brown roofs which are incorporated into the design of the new building; and
- Amenity courtyard gardens, with the planting scheme based around the use of native and wildlife-beneficial tree, shrub and perennial species.

6.54. Specific consideration has been given to the impacts of the Appeal Scheme on the BG2 SINC designation by LWT, as explained in section 2.3 of the Landscape and Ecological Mitigation Review Report (CD2.39). Each of the recommendations made in the report have been taken on board as part of the appeal proposals.

6.55. If necessary, it is considered that the final details of new habitat planting may be secured by planning condition.

6.56. In order to ensure that both retained habitats and protected species within the Appeal Site are protected from harm throughout the construction phase, a series of avoidance and mitigation measures shall be implemented. These include: the use of temporary protective fencing to prevent encroachment of machinery and personnel; storage of materials well away from sensitive habitats; ensuring that works are undertaken in line with industry standards and best practice; and the overseeing of works, as required, by an Ecological Clerk of Works. Such

[3] Defined as a transitional area of vegetation between two differing plant communities; in the case of the Appeal Site, grassland and trees / scrub

measures are set out in the Construction and Environmental Management Plan produced by JBA (October 2018) (CD2.78).

6.57. Whilst I consider that the content of the CEMP is comprehensive in respect of both the BG2 SINC, habitats and protected / notable species, should further detail be required, this could be secured by planning condition.

6.58. Furthermore, detailed consideration has been given to the long-term management of habitats within the site, in order to ensure that the features for which the BG2 SINC has been designated are protected and enhanced. A detailed 10 Year Ecological Management Plan was prepared by the LWT on behalf of the Appellant (CD2.43). This identifies key management objectives, principles and prescriptions to maximise the biodiversity value of the retained and newly provided habitats at the Appeal Site. The document includes proposals for ongoing monitoring of habitats and species, and a work schedule to guide management actions.

6.59. Subsequently, JBA have produced an Addendum to the 10 Year Management Plan (November 2018) (CD2.78). This document has been produced to update the previous document in light of revised plans and updated surveys, and to provide a detailed 20-year monitoring strategy for Slow-worms (see below).

6.60. In my view, the measures set out in the 10 Year Management Plan and subsequent Addendum are detailed and fully deliverable. Notwithstanding my view, should further clarity be required, this could again be secured by planning condition.

6.61. Taking into account the comprehensive package of measures proposed – which in my experience are exceptionally detailed for a scheme of this type and based on a robust baseline assessment – in my view there can be no doubt that the appeal proposals will not only avoid significant adverse effects upon habitats when the site is considered holistically, but will in fact be likely to secure long-term biodiversity benefits.

6.62. In the context of the BG2 SINC status afforded to the Appeal Site, I consider that the biodiversity value of this site will be at least maintained, but more likely

improved compared to its existing (declining) condition. The proposals reflect recommendations made specifically by LWT to ensure that the development proposals will not result in significant adverse effects to habitats overall.

Reptiles

6.63. The BG2 SINC is also designated on account of the population of Slow-worms that the site supports, with the citation stating that Gondar Gardens Covered Reservoir is the only known site for this species in Camden.

6.64. To ensure that Slow-worms are protected from harm, and moreover to ensure the long-term survival of the isolated population within the Appeal Site, a comprehensive mitigation strategy is proposed. The strategy accords with legislative requirements and best practice, and follows the guidelines produced by the Herpetofauna Groups of Britain and Ireland (HGBI)[4,5].

6.65. Full details of the proposed strategy are set out in the Reptile Mitigation Strategy report submitted as part of the planning application (CD2.38). In summary, the following measures are proposed:

- Retention of the most suitable habitats for reptiles in the eastern and southern parts of the Appeal Site, and, prior to commencement of translocation, implementation of enhancement works specifically to improve opportunities for Slow-worms and increase the carrying capacity of the habitats for this species[6], including provision of three new hibernacula, the reduction of scrub on banks and promoting a tussocky sward;

[4] Herpetofauna Groups of Britain and Ireland (1998). *Evaluating local mitigation/translocation programmes: Maintaining best practice and lawful standards. HGBI Advisory notes for Amphibian and Reptile Groups (ARGs).* HGBI, c/o Froglife, Halesworth.

[5] Like Froglife, HGBI (now Amphibian and Reptile Groups UK or ARG UK) is a conservation charity concerned with the conservation of native amphibian and reptiles by promoting and supporting a network of independent amphibian and reptile groups (ARGs). The guidelines produced by HGBI are commonly used by professional ecologists and organisations to inform translocation and mitigation strategies

[6] Defined as the maximum population size of the species that the environment can sustain, based on the food, water and other resources available in the environment

- Installation of temporary herpetofauna fencing, to remain in place throughout the construction period to prevent Slow-worms from recolonising the development site;
- Comprehensive translocation exercise prior to clearance of suitable habitats, to capture all Slow-worms from within the footprint of the proposed development and relocate them to the enhanced receptor site to the east, with the exercise to be undertaken by suitably qualified ecologists and in accordance with the relevant guidelines;
- Completion of destructive search (systematic and staged clearance of all suitable reptile habitats within the development footprint) following completion of the translocation exercise under the supervision of a suitably qualified ecologist to ensure that all Slow-worms have been moved from the working zone;
- Regular checks throughout construction to ensure that the temporary herpetofauna fencing remains in place and in a good condition, with remedial works undertaken as and when required; and
- Removal of temporary fencing upon completion of landscaping works, to allow Slow-worms to recolonise new species-rich grassland habitats on landscaped banks.

6.66. The reptile mitigation strategy has been updated by JBA in light of the 2018 survey work (CD2.79). However, the key measures proposed to ensure the protection of Slow-worms and to promote and secure habitats within the Appeal Site for the long-term remain unchanged from the previous version.

6.67. Furthermore, as explained in the Ecological Management Plan (CD2.43) produced by the LWT (as modified and extended by the Addendum; CD2.78), retained, enhanced and newly provided habitats within the Appeal Site will be managed to ensure that Slow-worms are protected from harm, and that optimal conditions are maintained in the long-term. A significant package of further surveys is also proposed post-development which will monitor the status of the Slow-worm population over time and inform future management practices.

6.68. In my view, the package of measures proposed is comprehensive, accords with all relevant guidelines and legal requirements and provides the decision-maker

with comfort that the appeal proposals will not result in adverse impacts on the existing population of Slow-worms at this site.

6.69. However, in line with the approach suggested above in respect of habitats, should the decision-maker wish to ensure that all matters have been fully addressed, then final details of a reptile mitigation strategy may be secured via planning condition.

6.70. Of course, the proposed strategy sits in contrast to the existing situation, as it is likely that the suitability of the site for this group could decline over time if management cannot be funded. This would ultimately result in the loss of this species from an isolated urban site.

Bats

6.71. All trees identified to have potential to support roosting bats along the southern boundary of the Appeal Site are to be retained under the appeal proposals. As such the proposed development will not result in any adverse effects upon roosting bats and a licence from Natural England will not be required.

6.72. As paragraph 3.37 of the CEMP explains (CD2.78), should arboricultural works be required to any trees identified to have potential to support roosting bats, further check surveys would be undertaken by a suitably qualified ecologist on a precautionary basis.

6.73. Surveys have not identified that the habitats within the Appeal Site are of any particular significance or importance for foraging and commuting bats, which is most likely due to the fact that the Appeal Site is surrounded on all sides by existing development with artificial lighting. However, features of greater value for this group (trees and scrub present along the southern, northern and eastern boundaries) are to be retained. Furthermore, enhancements are proposed in the form of new native planting and the introduction of ongoing management. These measures are likely to promote invertebrate populations and therefore improve potential prey for bats.

6.74. Survey work undertaken at the Appeal Site has identified that the vast majority of bat activity relates to Pipistrelle species, which are not particularly sensitive to artificial lighting (for instance, compared to *Myotis* or Horseshoe bat species). This is perhaps unsurprising given the context of the Appeal Site within an otherwise urban location. Nonetheless, as paragraphs 3.39 and 3.40 of the CEMP explain (CD2.78), a sensitive lighting strategy shall be delivered both during construction and operation. This will incorporate measures to minimise the risk of potential effects, restricting lighting only to where it is required and retaining dark corridors.

6.75. Should further detail be required regarding the proposed lighting strategy, this may be secured, as necessary, via planning condition.

6.76. In order to provide enhancements to roosting bats, as paragraph 4.5 of the CEMP provides, a total of six new bat roosting boxes are to be installed on suitable retained mature trees within the Appeal Site.

6.77. Taking into account the measures above, potential adverse effects upon foraging and commuting bats will be fully mitigated, and the Appeal Site will continue to provide opportunities for local bats post-development.

Birds

6.78. The vast majority of suitable nesting and foraging habitats for bird species are located along the boundaries of the Appeal Site and are to be retained under the development proposals. The provision of new tree and scrub planting, which will include berry and fruit bearing species as part of the species mix, in addition to new species-rich habitats such as grassland, green and brown roofs and the retention pond, will provide new and improved opportunities for this group.

6.79. As paragraph 3.41 of the CEMP states, any required clearance of potential bird nesting habitats shall either be undertaken outside the bird nesting season, or alternatively following a check undertaken by a suitably qualified ecologist to confirm that there are no active nests immediately prior to works.

6.80. Furthermore, new bird nesting boxes shall be provided for the benefit of this group. As noted in paragraph 4.4 of the CEMP, a variety of box types shall be used, targeted towards key species such as Starlings and Swifts.

6.81. The implementation of management of retained and newly provided habitats to maximise their biodiversity value in the long term will further benefit breeding and foraging birds.

Other Species (Hedgehogs and Invertebrates)

6.82. Habitats suitable for small mammals such as Hedgehogs, including trees and scrub along the boundaries of the Appeal Site, shall be retained under the development proposals. Existing connectivity from the Appeal Site to adjacent land shall be maintained post-development, allowing species to move between back gardens.

6.83. Furthermore, the retention of existing habitats (including standing dead wood) will ensure that opportunities for invertebrates within the Appeal Site shall be maintained. The provision of green and brown roofs as part of the new building shall provide additional opportunities for invertebrates, and providing wood and log piles shall be of particular benefit to saproxylic invertebrates such as Stag Beetles.

7. POSITION OF STATUTORY CONSULTEES AND THIRD PARTIES

7.1. To assist the inquiry, I now summarise the various consultation responses regarding the proposed development which are of relevance to ecology and nature conservation. Responses have been received from statutory consultees and third parties, including:

- Natural England, the government's statutory advisor on nature conservation matters;
- Greater London Authority (GLA);
- Salix Ecology, on behalf of the London Borough of Camden;
- London, Essex and Hertfordshire Amphibian and Reptile Trust (LEHART); and
- Gondar and Agamemnon Residents' Association (GARA).

7.2. I note that the LWT has not submitted any formal consultation response in relation to the proposed development. However, as explained above, advice has been sought from the LWT throughout the development of the application, and recommendations made have been incorporated into both the design of the proposals and also the arrangements for ongoing management. On this basis, it is clear that the LWT do not object to the development proposals on the grounds of ecology and nature conservation.

Natural England

7.3. In their consultation response dated 14 November 2017 (a copy of which is included at Appendix 4 of my evidence), Natural England has not raised any objections to the development proposals. Whilst I note that the letter refers to Natural England's Standing Advice for protected species, and states that in relation to non-statutory designated sites "*the authority should ensure it has sufficient information to fully understand the impact of the proposal on the site before it determines the application*", it is clear that Natural England does not have any material concerns about the appeal proposals.

7.4. The survey and assessment process followed by the Appellant fully accords with the Standing Advice provided by Natural England for protected species.

Greater London Authority

7.5. In a consultation response dated 18 December 2017, the GLA conveyed the Mayor's view that the planning application does not currently comply with the London Plan and draft London Plan, but that this could be addressed subject to confirmation of specific factors, as noted in the GLA's Stage 1 Report (also dated 18 December 2017; CD2.73).

7.6. With regards to ecology and nature conservation, paragraph 19 states that confirmation is required that "*the site's SINC protection is protected and enhanced in accordance with Policy 7.19 of the London Plan and policy G6 of the draft London Plan*".

7.7. As explained above, detailed consideration has been given to the BG2 SINC designation that applies to the Appeal Site, and a package of measures are proposed as an integral part of the development for the benefit of the habitats and species for which the site has been designated. Indeed, measures are based on advice and recommendations from the LWT, who sit on the London Wildlife Sites Board and provide detailed advice to the London Boroughs (including Camden) regarding the designation and protection of SINCs.

7.8. It is important to reiterate that in accordance with planning policy (notably policy 7.19 of the London Plan, and also as referenced in paragraph 2.10 of Camden's CPG Biodiversity document), the level of protection afforded to non-statutory sites in London must be commensurate with their place on the hierarchy of such sites.

7.9. In line with the above, it is apparent that the BG2 SINC status afforded to the Appeal Site lies towards the lower end of the hierarchy of such sites. It is plain this designation is a marker of ecological value, in the context of Camden as a whole, but it is also clear that the habitats and species for which the Appeal Site has been designated are not particularly rare, endangered or declining, at either a regional or national level.

7.10. For instance, Slow-worms are commonly found within suitable habitats throughout the London area, and indeed throughout much of the UK. Similarly, neutral semi-improved grassland habitats similar to those within the Appeal Site (and indeed more diverse) may be found in numerous locations both within London and throughout the UK. Whilst I appreciate that these species and habitats are not likely to be prevalent throughout Camden, and therefore their presence within the Appeal Site is more notable, we are not dealing with particularly rare species or habitats that have a limited distribution.

7.11. Given the comprehensive package of measures proposed, in my view it is clear that the appeal proposals fully respect the ecological value of the BG2 SINC designation and incorporate appropriate measures that will protect existing features which underpin the designated site and moreover result in long-term enhancements compared to the existing situation.

Salix Ecology (on behalf of London Borough of Camden)

7.12. Salix Ecology were instructed by London Borough of Camden to undertake an independent assessment of the information submitted as part of the planning application, insofar as it related to ecology and nature conservation matters. The findings of their assessment are presented in the report entitled "*Gondar Gardens Covered Reservoir Planning Application Review*" (December 2017) (CD2.80).

7.13. The document considers each of the reports submitted as part of the application and sets out the views of Salix Ecology on the extent to which the information presented accords with the relevant legislation, planning policies, and guidance.

7.14. In relation to the population of Slow-worms, the Salix Report quotes the Froglife guidelines and contends that the site may possibly support an exceptional population. Furthermore, it argues that the site may be considered as a Key Reptile Site given the local rarity of this species.

7.15. Based on both the 2016 and now 2018 surveys, there is no quantitative evidence to indicate that the population present at the Appeal Site is likely to represent an 'exceptional' population of Slow-worms. Indeed, given that the density of refuges is more than a factor of 10 greater than that set out in the guidelines, in my

professional view, based on the survey results it is entirely appropriate to conclude that the Appeal Site supports a population that is 'good'.

7.16. With regards to the site potentially qualifying as a Key Reptile Site, I consider that Salix Ecology have seriously misinterpreted the guidelines. Whilst it is acknowledged that Slow-worms may be rare in Camden, this falls far short of enabling the site to be considered as a Key Wildlife Site as it cannot reasonably be described as being "*of particular regional importance due to local rarity*". To my mind, "regional" importance would mean importance in the context of a broader area – for instance, London – and not in the context of a heavily developed urban borough.

7.17. I note that the comprehensive review does not raise any significant concerns or criticisms regarding the survey methodology, the assessment of impacts, or the package of measures proposed, which are described at paragraph 4.4 as being "*comprehensive*".

7.18. Indeed, at paragraph 4.5 it is stated that "*the implementation of these mitigation measures will reduce the impact of the development on features of nature conservation importance, and with the precautions outlined in the application, any offences under the wildlife legislation can be avoided*". I concur with this view.

7.19. However, concerns are raised by Salix Ecology at paragraph 4.6. I consider each of these issues below.

7.20. In paragraph 4.6, Salix Ecology states that "*there remains the risk that the status of some species, particularly slow worms, will still decline as the long term success of mitigation is difficult to predict*". It is unclear whether this statement refers to the existing situation at the Appeal Site, whereby the suitability of the site for this group could decline over time if ongoing management cannot be funded, or whether it does in fact relate to the package of measures proposed as part of the planning application. Given the wording of paragraph 4.5, I assume that the latter is more likely to be the case.

7.21. As I have explained, the mitigation strategy proposed closely follows guidance and best practice produced by both Froglife and the HGBI. Furthermore, based

on consultations and advice from the LWT, the Appellant is committed to ensuring that habitats within the Appeal Site are managed in the long-term specifically for the benefit of Slow-worms, as well as for biodiversity more generally, via a fully funded management plan.

7.22. Furthermore, monitoring surveys are proposed, which will extend over a twenty-year period, in order to assess the Slow-worm population present at the Appeal Site post-development. Should surveys identify a decline in population size or distribution, remedial measures shall be undertaken, and management prescriptions shall be adapted accordingly.

7.23. It needs to be remembered that for isolated populations located within a small site such as in this case, there is always an inherent risk that a single event could feasibly result in the loss of the colony. This could well occur irrespective of the planning situation – for instance, due to severe weather conditions or the introduction of predators. In my view, the package of measures proposed in respect of the Slow-worms in this case is exemplary and provides the greatest possible confidence that the colony will be protected in the long-term.

7.24. By way of residual impacts, Salix Ecology refer to the loss of a significant area of the BG2 SINC. As considered in detail above, whilst there will be a reduction in the physical extent of some habitats (e.g. neutral grassland) compared to the existing situation, such that the total area available for species associated with them (e.g. Slow-worms) will be reduced, when considered holistically the quality of the new habitats and features, in ecological terms, will be significantly improved compared to the existing situation. Moreover, management will secure long-term biodiversity benefits. This will fully mitigate for losses and moreover deliver benefits. For these reasons, the true ecological value for the site, including the key features for which the BG2 SINC has been designated, will be protected and enhanced, and therefore there would be no adverse residual impacts upon this non-statutory site.

7.25. Salix Ecology also raise concerns with regards to increase in lighting and noise levels, and the extent to which this will affect commuting and foraging bats and breeding birds.

7.26. As I have explained in Section 6 above, surveys did not record the habitats within the Appeal Site to be of particular significance for either bats or birds in the local area. The vast majority of existing features of value for both foraging and commuting bats, and indeed birds, will be retained and enhanced under the appeal proposals. Moreover, notwithstanding that the vast majority of bats registered pertained to species which are not particularly sensitive to lighting, effects both during construction and post-development can be fully mitigated through the CEMP and through the delivery of a sensitive lighting strategy. Such measures can be secured by planning condition.

7.27. Given the nature of the proposals (for residential apartments and care facilities), and the fact that there will be no access for residents into the 'wild' areas of the site in the north, east and south, disturbance to species using the retained and newly provided habitats is likely to be minimal. As such, in my view the risk of noise levels resulting in any adverse impacts upon protected or notable species is negligible.

7.28. Salix Ecology also make reference to the loss of semi-improved neutral grassland as a residual impact. However, as Salix themselves acknowledge, this is not a priority habitat and is not afforded legal protection. In my view the delivery of a comprehensive package of measures, which include reinstatement of species-rich grassland together with green and brown roofs, new tree and scrub planting, and specific measures for the benefit of birds, bats and invertebrates, will more than mitigate for the reduction in the opportunities which the grassland on-site currently provides.

7.29. Salix Ecology also refer to '*loss of accessible natural greenspace for the local community*'. Whilst, strictly speaking, this is not a point relating to ecology and nature conservation, I note that the Appeal Site is privately owned and is not currently open to public access. Moreover, under the appeal proposals access into the eastern part of the site is to be restricted purposely to minimise disturbance to the habitats and species which are associated with the site. As such there is clear justification as to why access into this area is not proposed.

7.30. In my view, the position adopted by Salix Ecology with regards to potential effects is far too precautionary and does not given due regard to the comprehensive package of mitigation measures proposed.

7.31. I note that LWT have also undertaken a review of the ecological survey work undertaken by JBA in their Landscape and Ecology Mitigation Review (CD2.39). No concerns are raised with regards to the survey methodology undertaken, nor with regards to the evaluation or conclusions.

London, Essex and Hertfordshire Amphibian and Reptile Trust (LEHART)

7.32. In a consultation response dated 26 November 2017, Will Atkins on behalf of LEHART raised concerns in relation to the impacts of the appeal proposals on Slow-worms. Concern is raised that the proposals will reduce the extent of habitat for this species within the Appeal Site, and that impacts such as increased risk of arson, predation by domestic cats and possible disturbance and collection "*all suggest that the future of the slowworm population could not be guaranteed*".

7.33. It does not appear that LEHART have had due regard to the type of development that is proposed and its design. The proposals are for residential apartments and care facilities (use class C2), rather than for residential dwellings (use class C3). On this basis, I would expect there to be covenants in place which would prevent ownership of pets, including cats. In addition, the risk of potential damage to habitats from arson is likely to be very low in a development of the nature proposed.

7.34. I also reiterate that public access will not be provided into the eastern part of the Appeal Site, specifically to prevent the risk of damage and disturbance to Slow-worms. Access into this area will only be permitted for the purposes of management and can be controlled through the use of barriers such as vegetation and fencing, as required.

7.35. As discussed above, in order for viable populations of species to remain present on isolated pockets of suitable habitat (where there is no potential for recolonisation), management needs to be undertaken to ensure that opportunities are maintained in the long-term. I believe that the comprehensive

proposals which form part of the Appeal Scheme represent the best package possible to secure the future of this species within the BG2 SINC, delivering appropriate funding to ensure that management can be secured.

7.36. The position of LEHART in relation to translocation exercises is set out clearly on their website[7]:

"*Commercial Translocations Policy. As a wildlife conservation organisation, LEHART does not undertake the capture and relocation ("translocation") of reptile and amphibian species for commercial purposes, either* in situ *(on site) or* ex situ *(off site).*

Ideally such activities would be rendered unnecessary because of proactive surveying for protected species in advance of planning consent, in combination with a legislative framework in which the presumption would be against consent being given in the event of protected species being found.

Within the existing framework, LEHART will lobby for best practice in commercial translocations involving herpetofauna and for the accreditation of those who conduct them. It also believes in the importance of long-term monitoring to assess the success or otherwise of commercial translocations" (my emphasis)

7.37. Given the above, the default position of LEHART in relation to the Appeal Site would appear to be that no planning application should be granted on account of the presence of the population of Slow-worms. This is not supported by legislative or planning policy requirements; indeed, this is recognised by the organisation in the last paragraph quoted above.

7.38. The importance of protecting and safeguarding the population of Slow-worms at this site has been given very serious consideration indeed, notwithstanding that in a wider context (beyond Camden) this is a widespread and common species. The inherent 'value' or significance of the population at this site is due to the relative paucity of habitats in the local area, however the level of legislative protection afforded to this species remains the same.

[7] LEHART Website – available at www.lehart.org/consultancy.html

7.39. I consider that the package of avoidance, mitigation and enhancement proposals for Slow-worms at this site does indeed comply with best practice, and that long-term monitoring shall indeed be undertaken. As such, this does not only comply with all legislative, planning policy and guidance, but would also meet the approach as set out by LEHART.

Gondar and Agamemnon Residents' Association (GARA)

7.40. I note that concerns in relation to ecology and nature conservation are also raised by GARA in their consultation response, dated 12 December 2017. Concerns are raised under four separate sub-headings. A number of the observations and comments are similar to those summarised above (by Salix Ecology and LEHART), and as such I will not repeat comments that I have already made.

7.41. Paragraphs 3.1 to 3.12 (inclusive) fall under the subheading "*Biodiversity value of the site*". Concerns are raised by GARA in relation to a number of aspects, including: inappropriate current management of habitats at the Appeal Site by the appellant; delivery of green roofs will not provide opportunities for Slow-worms; the potential for increased disturbance to Slow-worms from new residents; and that the importance of the site for biodiversity has been considered by Inspectors at the previous planning inquiries.

7.42. It is important to note that the non-statutory designation afforded to the site does not confer any legal requirement or obligation to manage the site in a particular manner, although there is of course a legal requirement to avoid potential harm to reptiles. Notwithstanding this, to my knowledge the site remains subject to management by mowing / cutting on behalf of the landowner, which I understand has been in place for a number of years, even though the site has not been generating any income.

7.43. In contrast to this voluntary arrangement, the proposed development will ensure that ongoing management of retained, enhanced and newly provided habitats specifically for their biodiversity value will be secured and fully funded in the long-term.

7.44. It is acknowledged that the provision of green roofs would not provide opportunities for Slow-worms; however, these habitats are proposed in order to provide both botanical interest within the Appeal Site, and also to maximise biodiversity more generally (for instance, providing improved opportunities for invertebrate species). The significant improvements to retained and newly provided habitats in the eastern part of the Appeal Site, together with the implementation of long-term management, will ensure that optimal habitats will be provided, to ensure that the colony of reptiles present within the Appeal Site is protected and thrives in the future.

7.45. As explained above, the residents of the proposal would not have access into the eastern parts of the Appeal Site post-development; as such concerns with regards to the potential for disturbance are unfounded.

7.46. I note that the GARA submission makes reference to the 'Reservoir Scheme', which was the subject of a public inquiry in 2012 (PINS Ref: APP/X5210/A/11/2167190). However, whilst GARA refer to the Council's position at this appeal, the position adopted by the Inspector in relation to ecological matters is unequivocally stated in paragraphs 32 and 33 of his Decision (OA2.16). For the avoidance of doubt, these paragraphs are duplicated below:

"32. I believe that in many cases the integrity of a site will be identical with the preservation of its boundaries, but it may not always be the case. The important consideration must be the detailed manner in which the site is occupied and used rather than the geographical extent of its designation. On the basis of the evidence I have received in this case, for example, the surrounding domestic gardens appear to make a greater contribution to the nature conservation interest of the area than the reservoir roof – even though the former do not fall within the SINC and the latter does. I also note that paragraph Dc of policy 7.19 is of flexible construction permitting a fairly wide interpretation. Taking all these matters into account I conclude the scheme complies with the requirements of paragraph E2 of the policy – the impact would be minimized and mitigation supplied.

33. I have taken account of the representations made and of the nature conservation interest of the locality, and concluded that the attention which would be paid to the eastern part of the appeal site (and to a lesser extent its northern

and southern boundaries) would constitute a benefit of the scheme. I consider the ecological interest of the site as a whole would be enhanced and improved and that in this respect the limited harm identified under the first main issue would be outweighed."

7.47. Whilst there are clearly differences between the 'Reservoir Scheme' and the development proposals before this inquiry, there are a number of key similarities. The proposed extent of built form is broadly comparable to that proposed for the 'Reservoir Scheme'. A comprehensive package of measures is proposed to ensure that existing opportunities for biodiversity are maintained and that long-term benefits are realised, including an avoidance, mitigation and enhancement strategy for Slow-worms. Indeed, by preventing public access into the eastern part of the Appeal Site and delivering care apartments and facilities as opposed to standard residential dwellings, in my view the potential for effects arising from this scheme is even less likely.

7.48. In my professional view, the conclusions outlined clearly and succinctly in paragraphs 32 and 33 of the Inspector's report are of direct relevance to the Appeal Proposals. I believe that the development proposals will result in ecological enhancements being delivered, which will more than offset losses, such that the proposals comply with all relevant legislation and planning policy.

7.49. Paragraphs 3.13 and 3.14 of the GARA submission relate specifically to impacts on Slow-worms. Whilst GARA again make passing reference to the 'Reservoir Scheme' (specifically in relation to the extent to which Slow-worms can move into and through the Appeal Site from adjoining residential gardens), they omit to include the conclusion reached by the Inspector in paragraph 28. This is again duplicated below:

"28. I recognise that the redevelopment of the reservoir itself would effectively deny potential routes across the SINC which representatives might have followed, but the denser vegetation is to be found in the eastern part of the site and along its southern and northern boundaries and in adjacent gardens. It is on this basis that I found the appellant's argument that the slow worms would in any event be more attracted to these areas to be convincing. Subject to the implementation of an appropriate scheme and the regulation of access, I am

unconvinced that the slow worms would be adversely affected by the scheme as a whole – rather the reverse."

7.50. Opportunities for Slow-worms to move through and around the Appeal Site post-development along the northern, southern and eastern boundaries shall be fully maintained post-development. On this basis, I do not believe that the concerns raised by GARA are of any substantive ecological merit.

7.51. Paragraphs 3.15 to 3.19 refer to other fauna, including bats, birds, invertebrates and mammal species. Having considered the points raised, in light of the avoidance, mitigation and enhancement measures which are proposed as part of the new development, in my view the issues raised have been fully addressed such that there would not be any adverse ecological effects of material significance arising from the proposed development.

7.52. Paragraphs 3.20 to 3.25 relate to the role of the London Wildlife Trust. It is my understanding that LWT were specifically contacted by the appellant in relation to the emerging development proposals, in order to seek their professional advice in relation to the avoidance and mitigation strategies proposed, and to identify additional measures that could be delivered to maximise the ecological value of the site. Subsequently, the development proposals have been amended to take into account these recommendations.

7.53. In my view, consulting with key local groups such as LWT, who have expertise in ecological matters and also local knowledge of issues pertinent to London, is an exemplary approach for a developer to undertake when considering development proposals. It is important to remember that there is no requirement for developers to engage with such bodies. Furthermore, taking on board recommendations put forward by LWT demonstrates that the appellant is committed to ensuring that the biodiversity value of the site is maximised post-development.

7.54. Whilst I note that GARA have flagged minor differences between the various documents which make up the planning application in their submission, in each case this can be resolved through straightforward clarifications. For the

avoidance of doubt, as stated above, no public access will be provided to the eastern part of the site.

7.55. In conclusion, none of the issues raised by GARA in their submission with regards to ecology and nature conservation should be afforded any weight.

8. BIODIVERSITY BENEFITS OF THE APPEAL PROPOSALS

8.1. As I have discussed above, in my view it is clear that the Appeal Proposals will result in significant benefits to biodiversity compared to the existing situation at the Appeal Site. In this section I provide a summary of the key ecological benefits that are likely to arise as a result of the Appeal Scheme, and contrast this with the situation should the Appeal Scheme not be consented.

8.2. In terms of the habitats and species which are currently present within the Appeal Site (and indeed which underpin the BG2 SINC designation), the presence of a population of Slow-worms is probably of greater ecological significance, given the nature of Camden. As previously noted by the Inspector in relation to the 'Reservoir Scheme', Gondar Gardens is a small and isolated site, which with the exception of the back gardens to adjoining properties, is disconnected from other areas of greenspace in the local area. The long-term proliferation of any species or group within such a site depends entirely on the extent to which management is sustainable. If funding is not available to ensure that management can continue, then the future of species which are reliant on maintaining habitats is in question.

8.3. With regards to Slow-worms at the Appeal Site, the gradual succession of areas to scrub and trees will be detrimental to the population, particularly where this involves losses to the south-facing bank which adjoins the application site boundary.

8.4. In contrast, the Appeal Scheme will deliver a comprehensive strategy which not only safeguards reptiles from harm which could otherwise result from the development, but most importantly ensures that habitats will be managed in an optimal way for the next 20 years. Monitoring will provide a feedback mechanism to ensure that this species remains present, enabling management prescriptions to be altered, if necessary, to ensure that the population is best protected. Whilst any isolated population is inherently at risk, in my view the package of measures proposed will best ensure that the future of this species is protected in the long-term.

8.5. The habitats currently present within the Appeal Site are also considered to be of interest in the context of the Borough, with the grassland sward in particular of greater value. Again, the value of grassland habitat (both in terms of its botanical diversity and the opportunities that it provides for faunal species) is reliant on the management of the site. If management cannot be maintained, then this is highly likely to lead to the loss of biodiversity value over time.

8.6. In my view, the Appeal Scheme includes measures which will maximise the biodiversity value of habitats within the site post-development, including provisions for long term management. Whilst there will be losses in the overall quantum of habitat, this will be more than mitigated through diversification of habitats (providing a broader range of different habitat types such as green roofs, a wetland and additional tree and scrub planting), providing a mosaic of different vegetation types that will be of benefit to a range of species. Moreover, the Appeal Scheme will ensure that a sustainable, funded management strategy will be delivered, thus securing the value of these habitats in the long-term.

8.7. Whilst survey work has confirmed that the Appeal Site is utilised by foraging and commuting bats, it is apparent that the value of the site for this group is limited and restricted to common species. In truth, it is unlikely that the Appeal Site will ever be of significant interest for this group, given that it is surrounded on all sides by tall buildings, set within an area of dense residential development with artificial lighting throughout, and separated from dark corridors. In this regard, even if the Appeal Site was managed solely to provide optimal conditions for this group (putting aside all other matters), the degree to which benefits would be realised is probably likely to be modest.

8.8. Notwithstanding this, the Appeal Proposals incorporate measures such as new species-rich habitat planting along the boundaries of the site, a sensitive lighting strategy to maintain dark corridors and the provision of new bat roosting boxes. This will not only ensure that existing opportunities for bats are maintained but shall seek to maximise the value of the Appeal Site for this group.

8.9. Similarly, surveys have identified that whilst the Appeal Site supports an assemblage of bird species that in a local context is of relative interest, it is clearly not a site of significant value for this group. The Appeal Proposals will provide

additional interest for birds in the form of new habitat planting and installation of bird nesting boxes. Opportunities for other species such as Hedgehogs and invertebrates shall also be retained and enhanced through new habitat planting and ongoing management.

8.10. With any site, one needs to be realistic. It is unreasonable to expect the Appeal Site to be a nirvana for wildlife, irrespective of how the habitats are managed. The isolated location of the site, surrounded by existing development on all sides and separated from other areas of open space, is an overarching issue. This issue remains regardless of whether the site remains as open space, or whether development occurs. Even if the Appeal Proposals are not consented and the site were to be managed (sustainably) solely in an optimal way to enhance its biodiversity value, the extent to which biodiversity benefits will be realised is inherently limited given these factors. In my view, any conclusion that the Appeal Site is of vital ecological importance at anything other than the local or Borough level is simply factually incorrect.

8.11. I believe that the Appeal Proposals offer the very best way of ensuring that the current ecological interest present is safeguarded, and moreover that enhancements are delivered that will remain for the future. My personal view regarding the proposals is the same as that given by the Inspector who consented the ‘Reservoir Scheme’; I consider that the ecological interest of the Appeal Site as a whole would be enhanced and improved under the development proposals, and as such any harm would be more than outweighed by the long term ecological benefits.

9. SUMMARY AND CONCLUSIONS

9.1. The Appeal Proposals have been refused on a number of grounds, including three Reasons for Refusal which ostensibly relate to ecological matters. However, having given detailed consideration to this, it is apparent that there is only one Reason for Refusal that truly relates to ecology and nature conservation, and not other matters such as open space or design.

9.2. Comprehensive survey work has been undertaken at the Appeal Site by JBA over a number of years to establish a robust baseline. Having sought further advice from LWT, a comprehensive package of avoidance, mitigation and enhancement measures will be delivered that not only avoid adverse effects to habitats and species, but which moreover will deliver enhancements.

9.3. No objections have been raised by Natural England or the GLA on the grounds of impacts to ecology. Whilst concerns have been raised by Salix Ecology, who undertook a review on behalf of Camden, the issues raised are excessively precautionary and disproportionate to the level of risk. Similarly, having given detailed consideration to concerns raised by other third parties, no new information has been presented of any significance and the issues raised do not hold merit in ecological terms.

9.4. The Appeal Proposals will fully mitigate for potential adverse impacts to ecology, including the BG2 SINC designation, habitats and protected / notable species. As I explain in Section 8 above, in my view the package of measures proposed will secure benefits to nature conservation over and above the existing situation. As such I believe there are no justified reasons for refusing the appeal on ecology and biodiversity grounds.