SKYLARK PROOF OF EVIDENCE

LAND WEST OF BRADMORE ROAD AND NORTH OF WYSALL ROAD, WYSALL, NOTTINGHAMSHIRE (THE APPEAL SITE)

carried out by

CLARKSON & WOODS
ECOLOGICAL CONSULTANTS

PREPARED FOR: EXAGEN DEVELOPMENT LTD.

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1 INTRODUCTION

1.1 Background

1.1.1 On 12th June 2025 the Rushcliffe Borough Council (RBC) Planning Committee refused a planning application (reference: 24/00161/FUL) submitted by Exagen Development Ltd (the Appellant) for the development of Land West of Bradmore Road and North of Wysall Road, Land West of Wysall, Wysall ('the Appeal Site', also known as Old Wood Energy Park; the 'Application Scheme') comprising:

1.1.2 "*Construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar PV with co-located battery energy storage system (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling.*"

1.1.3 A planning appeal pursuant to Section 78 of the Town and Country Planning Act 1990 was subsequently made by the Appellant and the planning inspectorate confirmed the procedure for dealing with the appeal would be a public inquiry. This Proof of Evidence (PoE) concerns ecology matters relating to the appeal, with particular reference to potential impacts on skylark which was listed as Reason for Refusal no.3 (RfR3) on the decision notice issued by RBC dated 19th June 2025.

1.1.4 Following the refusal of the application by RBC, minor changes have been made to the design of the Application Scheme to accompany the appeal submission. The proposed changes have been made to address changes to the EA Flood Risk mapping published in March 2025 and to provide additional NFCC compliance for the BESS proposal, alongside some additional landscaping and additional skylark mitigation land, and further detail on these changes were included in the Summary of Changes Document and Summary of Changes Comparison Plan (CD3.4 and 35 respectively). The Appellant duly requests that the inspector takes the revised information submitted under cover of the appeal into consideration in their determination. These changes were consulted on at the time of lodging the appeal in accordance with the Holborn principles[1] as set out on the Planning Proof of Evidence of Mr Cussen.

1.1.5 The LPA, within their Statement of Case (CD 8.4), asserts that these changes fundamentally alter the nature of the development under consideration at this appeal and at the CMC there was no decision made as to whether the changes had been accepted and as such the appeal would proceed covering two options, the original Appeal Scheme and the amended Appeal Scheme. These two terms are used in this document and where statements apply to both schemes just the term Scheme is used.

1.2 Witness Particulars

1.2.1 I am Harry Fox, Associate Director at Clarkson and Woods Ltd (C&W). I am a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) with over 18 years of professional experience. I have a degree in Ecology and have been a member of CIEEM since 2008.

1.2.2 Whilst working in ecological consultancy I have specialised in survey, impact assessment and mitigation design, particularly with respect to birds and bats. I am a current member of the Bird Survey Guidelines committee and in 2022 published a member journal piece published in the CIEEM 'In Practice' journal on the subject of skylark and solar farms[2]. I have also contributed to an industry-specific position statement on skylark and solar farms for Solar Energy UK which is currently in preparation. I have also written industry guidance on the mitigation of artificial lighting impacts on bats.

1.2.3 Clarkson and Woods have established a reputation for high quality survey and impact assessment work in the renewables sector, having supported five nationally significant solar projects and numerous smaller scale schemes under the Town and Country Planning Act regime. Additionally, Clarkson and Woods have built a considerable knowledge base on the operational management and ecological enhancement of solar farms and regularly work with Solar Energy UK to advise on such topics as the recent Natural Capital guidance, devising a standard methodology for ecological monitoring on solar farms and the emerging industry position statement on skylark.

[1] R (Holborn Studios Limited) v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)
[2] Fox, H. (2022). In Practice, 117, 47–51. September 2022. CIEEEM, London.

1.2.4 Clarkson and Woods were initially instructed by the Appellant to undertake ecological surveys and assessment work in 2022, and have since been completing regular survey and assessment work on the Appeal Site. This has included surveys for breeding birds, wintering birds and amphibians in 2022 and a MoRPH survey and water vole surveys in 2023, with most recently an updated extended UK Habitat Classification survey in 2025, prior to the submission of the appeal. Clarkson and Woods' advice has been closely followed by the Appellant and the approach to scheme design has been mindful of the ecological constraints that we have highlighted.

1.2.5 Within Clarkson and Woods, I worked as the Project Director for this project overseeing the management of surveys and provision of advice and documents to the Appellant in support of the planning application. The Appellant asked me if I would act as the expert witness on ecology matters and, based upon my previous involvement with the project, I accepted the role. The conclusions within this Proof of Evidence are my own, true, professional opinion and are drawn in compliance with the CIEEM Code of Professional Conduct.

1.3 Scope of this Proof of Evidence

1.3.1 As clarified during the Case Management Conference held on 07/01/26 (see Notes Following CMC Ref: APP/P3040/W/25/3375110), and agreed within Item 1 of the signed Ecological Statement of Common Ground (ESoCG – CD 8.3.3), the sole subject of RfR3 is that of skylark and does not include other protected species, habitats or ecological features. Furthermore, no objections concerning other ecological features were raised within the planning application consultation comments from RBC's Senior Ecology and Sustainability Officer and RBC's Planning Officer.

1.3.2 This document should be read in conjunction with the Planning PoE prepared by Pegasus Ltd (CD 8.6).

1.3.3 In order to address RfR3 I rely upon the following reports prepared by Clarkson and Woods ltd. to inform various iterations of proposals prepared for the Application Scheme and Appeal Scheme:

- Ecological Impact Assessment ((EcIA) January 2024 – CD 1.11)
- Breeding Bird Survey Report (September 2023 – CD 1.14)
- Ecological Impact Assessment (October 2024 – CD 2.17)
- Ecological Impact Assessment (April 2024 – CD 2.31)
- Biodiversity Net Gain Updates Comments (April 2024 – CD 2.32)
- Ecological Impact Assessment including Biodiversity Net Gain Assessment (October 2025 – CD 3.8)
- Statement of Case: Ecology Appendix, Old Wood Energy Park, Wysall, Nottinghamshire (v1.0, October 2025 – Appendix 3 within CD 8.2)

1.4 Zone of Influence

1.4.1 The Zone of Influence identified for this PoE primarily focuses on the habitats within the Appeal Site and the skylark population supported thereon but extends to encompass the component of the local skylark population which may utilise habitats within the neighbouring consented Highfields Solar Farm (HSF) (application reference: 22/00303/FUL) to the immediate west of the Appeal Site. Additionally, for context during the impact assessment process, comparison is drawn to the various estimated skylark populations for the local area, district and region.

2 REVIEW OF PLANNING CONTEXT

2.1 Planning Background

2.1.1 In this section I have set out the planning background relevant to the original planning application and its refusal. Comments from key consultees received during the planning process, as well as relevant planning committee materials are summarised below, together with my commentary, where appropriate.

Key Consultee Comments

Rushcliffe Borough Council Senior Ecology and Sustainability Officer (Paul Phillips)

"The Breeding Bird survey identified eight red-listed and 14 amber-listed species of conservation concern, of which 10 of are also Species of Principal Importance, breeding on site. However the only bird of conservation concern recorded in high numbers within the fields themselves being the skylark, partial on-site mitigation is proposed and should be implemented, however this is likely to lead to a permanent negative impact. Reasonable avoidance measures for other birds is proposed which should also be implemented…"

"…It is unlikely that this development will have a detrimental impact on populations of protected species provided the proposed reasonable avoidance measures, mitigation and enhancements are implemented."

Natural England

No objection was made by Natural England.

Commentary on Key Consultee Comments

2.1.2 RBC's ecology officer, having examined the Appellant's Ecological Impact Assessment (EcIA) and other supporting reports, correctly note the conclusion from the assessment that the mitigation for nesting displacement impacts on skylark put forward in the application is partial, and that a residual adverse effect is predicted. However, the ecology officer's characterisation of the numbers in which skylark are recorded on site as being 'high' needs to be read in the context within it was originally written in the Ecological Impact Assessment. Both the breeding bird survey report and the EcIA describe the diversity and abundance of birds recorded during the survey as being 'moderate' or 'modest'. In this context, skylark were one of the most numerous of the red-listed Birds of Conservation Concern recorded within the assemblage (along with linnet and yellowhammer). The numbers recorded in the breeding bird survey report - 11, 13, 8 and 5 individuals across the survey visits – are not considered to be objectively high for a c.95ha site of lowland arable farmland in Britain. The estimated eight skylark territories supported by the Appeal Site at the time of survey represents a territory density of approximately 0.08 territories per hectare, which is extremely low even for intensive, winter-sown cereal crops[3].

Planning Officer's Committee Report

"122. However, it is noted that skylarks are identified as being of conservation concern and that even with the partial on-site mitigation, the proposal is likely to lead to a permanent negative impact on this species of bird. Mitigation for skylarks is proposed by providing approximately 3.62ha of arable land with set-aside or spring-sown crop within the south eastern corner of the northern parcel of the site. This land is to be retained as an open unpanelled area to provide enhanced nesting habitat for skylarks. Displacement of remaining skylark territories into suitable neighbouring habitats is further mitigated for through the proposed grassland enhancement within the panelled fields which will increasing their suitability as a skylark foraging source above that of previously arable land. Nevertheless, there will still be a negative residual effect for skylarks. Skylarks, as with all birds species are protected under the Wildlife and Countryside Act 1981. However they are not protected in the same way as Bats or Great crested Newts which are European Protected Species under the Conservation of Habitats and Species Regulations 2017.

"126. In light of the above, it is considered that due to the identified impact to Skylarks habitat, there is a degree of conflict with Policy 38 of the LPP2. However, with recommended mitigation and reasonable

[3] Donald, P. F. (2004). The Skylark. T & A D Poyser.

avoidance measures secured by condition, the conflict would be limited. However, this needs to be assessed and weighed in the planning balance.

"169. The overall harm of the proposal can be summarised as resulting in major adverse impact on the landscape initially, reducing down to moderate/minor adverse once the landscaping mitigation works have fully established. There has also been an identified impact from an Ecological perspective, in that the proposal would reduce natural habitat for Skylarks resulting in a permanent negative impact of this species of bird. From a heritage perspective, the proposal has been considered to alter the contribution the rural landscape makes to the character and significance of the conservation area and the historic buildings from certain viewpoints. The harm in this respect has been assessed as being towards the medium level of less than substantial.

170. These impacts weigh negatively against the proposal and conflict with aims of identified policy guidance. However, it is considered that the significant weight associated to the generation and storage of renewable energy would clearly outweigh the identified harm.

171. In summary, it is therefore considered that when assessing the planning balance of the application as a whole, the undisputed urgent need for this form of development to assist in national and local targets for moving towards a low carbon future, would clearly outweigh the identified harm in terms of landscape character, heritage assets and Skylark habitat.

172. These factors, mean that the planning balance (and when considered in the context of the tests under Section 38(6) Planning and Compulsory Purchase Act 2004) is weighted in favour of the proposed development.

173. Accordingly, it is considered that when assessed as a whole the proposed development would be inline with guidance within the NPPF and the Council's own local planning policies and planning permission is recommended to be granted.

174. Negotiations have taken place during the consideration of the application to address adverse impacts identified by officers and to address concerns. Amendments have been made to the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and the recommendation to grant planning permission.

Recommendation. It is RECOMMENDED that planning permission be granted subject to the following conditions:…
…10. The ecological enhancements and reasonable avoidance measures shall be carried out in accordance with the recommendations within the Ecological Impact Assessment (EcIA) report by Clarkson and Woods received 4th November 2024."

Commentary on Planning Officer's Committee Report

2.1.3 A reasoned judgement is given as to the relative benefits of the Scheme and its likely adverse effects. The planning officer correctly notes that the predicted residual effects on skylark have been transparently identified and assessed, enabling the appropriate weight to be placed in the planning balance.

Minutes of the Rushcliffe Borough Council Planning Committee Meeting – 12 June 2025

"… The Committee also noted the impact caused by the application upon protected species including Skylarks, would not be outweighed by the benefits of the application."

Commentary on Committee Meeting Minutes

2.1.4 The RBC Planning Committee resolved to refuse the planning application at a meeting held 12 June 2025 against the advice and the recommendation of the Officer's Report to Committee, which was that planning permission should be granted subject to the imposition of 23no. planning conditions. No reasoning or supporting explanation is given as to how the mitigation proposed did not reduce impacts to acceptable levels or why residual effects on skylark were not outweighed by the benefits of the Scheme.

Decision Notice: Reason for Refusal 3

"The impacts of the proposal upon protected species including the permanent negative residual impact upon Skylarks, is not considered to be adequately diminished by the proposed mitigation measures. The impact is not outweighed by the benefits of the scheme and the proposal is therefore contrary to Policy 1 (Development Requirements), Policy 16 (Renewable Energy) and Policy 38 (Non-Designated Biodiversity

Assets and the Wider Ecological Network) of the LPP2 and Chapter 15 (Conserving and Enhancing the Natural Environment) of the NPPF."

Commentary on Reason for Refusal 3

2.1.5 While the assertion that the mitigation proposed is inadequate is dealt with in more detail in Section 3, it is noted that no reference or implication is made to the cumulative assessment of impact on skylark between this application and the HSF Scheme. This presumably reflects the fact that the Scheme cannot be held to mitigate for any effects arising from the neighbouring HSF scheme, especially since it was consented on the conclusion there would be no significant effect on skylark with no mitigation provided.

2.2 Relevant Planning Policy

2.2.1 In this section I have reviewed the National and Local planning policy relevant to the appeal. RfR3 draws attention to compliance with Chapter 15 (Conserving and Enhancing the Natural Environment) of the NPPF, and to Policy 1 (Development Requirements), Policy 16 (Renewable Energy) and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the Local Plan Part 2. These policies are set out below with a commentary on their relation to the planning application and Appeal Scheme.

National Planning Policy Framework – Chapter 15: Conserving and Enhancing the Natural Environment

Paragraphs 192 – 195: Habitats and Biodiversity

192. To protect and enhance biodiversity and geodiversity, plans should:

(a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and

(b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

193. When determining planning applications, local planning authorities should apply the following principles:

(a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

(b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

(d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

194. The following should be given the same protection as habitats sites:

(a) potential Special Protection Areas and possible Special Areas of Conservation;

(b) listed or proposed Ramsar sites; and

(c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

195. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."

Commentary

2.2.2 For reasons set out in this proof of evidence, it is considered that the mitigation put forward by the Scheme is adequate and is consequently compliant with paragraph 193, particularly clause a) which is most pertinent to protected species. Paragraphs 192, 194 and 195 are considered less relevant to the Scheme since they are primarily concerning with policymaking, protected sites and habitats sites respectively.

Rushcliffe Local Plan Part 1: Core Strategy – Adopted December 2014

Policy Wording

"Policy 17: Biodiversity

The biodiversity of Rushcliffe will be increased over the Core Strategy period by:

a) protecting, restoring, expanding and enhancing existing areas of biodiversity interest, including areas and networks of priority habitats and species listed in the UK and Nottinghamshire Local Biodiversity Action Plans;

b) ensuring that fragmentation of the Green Infrastructure network is avoided wherever possible and improvements to the network benefit biodiversity, including at a landscape scale, through the incorporation of existing habitats and the creation of new habitats;

c) seeking to ensure new development provides new biodiversity features, and improves existing biodiversity features wherever appropriate;

d) supporting the need for the appropriate management and maintenance of existing and created habitats through the use of planning conditions, planning obligations and management agreements; and

e) ensuring that where harm to biodiversity is unavoidable, and it has been demonstrated that no alternative sites or scheme designs are suitable, development should as a minimum firstly mitigate and if not possible compensate at a level equivalent to the biodiversity value of the habitat lost.

Designated national and local sites of biological or geological importance for nature conservation will be protected in line with the established national hierarchy of designations and the designation of further protected sites will be pursued.

Development on or affecting other, non-designated sites or wildlife corridors with biodiversity value will only be permitted where it can be demonstrated that there is an overriding need for the development and that adequate mitigation measures are put in place."

Commentary

2.2.3 Policy 17 of Local Plan Part 1 primarily relates to the protection and enhancement of valuable habitats within decision-making. Clause a) refers to "areas and networks of priority habitats and species"; no areas or networks for skylark are known to be designated in Rushcliffe Borough. The Scheme is considered to be compliant with clauses b), c) and d) owing to the creation of new permanent grassland and woody boundary habitats. The use of "biodiversity" in clause e) is ambiguous, although this is later clarified to relate to habitats.

Rushcliffe Local Plan Part 2: Land and Planning Policies – Adopted October 2019

Policy Wording

Policy 1: Development Requirements

"Planning permission for new development, changes of use, conversions or extensions will be granted provided that, where relevant, the following criteria are met:…

…6. There is no significant adverse effects on important wildlife interests and where possible, the application demonstrates net gains in biodiversity."

Policy 16: Renewable Energy

"Proposals for renewable energy scheme will be granted permission where they are acceptable in terms of:…

…c) ecology and biodiversity."

Policy 38: Non-Designated Biodiversity Assets and the Wider Ecological Network

"1. Where appropriate, all developments will be expected to preserve, restore and re-create priority habitats and the protection and recovery of priority species in order to achieve net gains in biodiversity.

2. Developments that significantly affect a priority habitat or species should avoid, mitigate or as a last resort compensate any loss or effects.

3. In order to ensure Rushcliffe's ecological network is preserved and enhanced, development within Biodiversity Opportunity Areas should: a) retain and sympathetically incorporate locally valued and important habitats, including wildlife corridors and stepping stones; and b) be designed in order to minimise disturbance to habitats and species.

4. Outside of the Biodiversity Opportunity Areas developments should, where appropriate, seek to achieve net gains in biodiversity and improvements to the ecological network through the creation, protection and enhancement of habitats, and the incorporation of features that benefit biodiversity."

Commentary

2.2.4 As set out in this PoE, it is demonstrated how adverse impacts on skylark, both potentially arising from the Application Scheme in isolation and as a cumulative impact, are mitigated (including through the potential further mitigation within the Appeal Scheme) to result in a residual effect only significant at Site level and argues that this is an acceptable position. This is especially the case considering the various other benefits for biodiversity which will result from the Application Scheme, not least for farmland birds as a group and grassland creation. This is evidenced through the BNG calculations produced to support the Scheme. As such, it is considered that the Scheme is compliant with Policies 1, 16 and 38.

3 REVIEW OF THE IMPACTS, MITIGATION AND RESIDUAL EFFECTS OF THE PROPOSED DEVELOPMENT UPON SKYLARK

3.1 Introduction

3.1.1 In this section I will present the ecological baseline for skylark at the Appeal Site derived from breeding bird survey and habitat assessment before evaluating the relative ecological importance of the supported skylark population. Then, I identify the ways in which skylark may potentially be impacted by the Scheme, followed by an assessment of the effect of both the embedded and additional mitigation put forward in the Application Scheme, and that offered by the Appeal Scheme, as well as potential further mitigation. The significance of the residual effects of the Application Scheme and Appeal Scheme in isolation are then discussed, together with an assessment of the overall acceptability of the mitigation proposed.

3.1.2 This discussion is made in the context of the Scheme in isolation; potential cumulative effects are discussed in Section 4.

3.1.3 Appendix 1 provides figures to show habitat layout within parcels Old Wood North and Old Wood South, and field numbering used within this section.

3.2 Ecological Baseline

3.2.1 While skylark are a relatively numerous and widespread species in the UK, their population has suffered a steep decline by some 60% since the 1960s owing principally to changes in farming practices and land use. As such, skylarks are a 'Species of Principal Importance' (as listed under Section 41 of the Natural Environment and Rural Communities Act 2006) and so are capable of being a material consideration during the planning process.

3.2.2 A suite of four breeding bird surveys was conducted of the Appeal Site (including mitigation land) between 19th April 2022 and 12th July 2022 which was considered sufficient to record the number, location and species of birds using the Appeal Site and evaluate its likely importance to breeding birds. The surveys followed standard Common Bird Census methods devised by the British Trust for Ornithology. The methods and results of the surveys were communicated within the Breeding Bird Survey report prepared to support the planning application and were assessed within the EcIA report also prepared for the planning application. Further detail on the baseline skylark territory data for the mitigation land has been provided against Item 8 of the signed Statement of Common Ground on Skylark (CD 8.3.3).

3.2.3 On the subject of the number of breeding bird surveys conducted, it should be noted that the Bird Survey Guidelines committee was established in 2023 and published the first industry guidance on survey effort in the same year, whereby a minimum of six visits was recommended unless fewer visits could be ecological justified. Therefore, the surveys pre-date the emergence of this guidance. It remains my opinion that four such visits were adequate at the time of survey considering the modest size and scale of the development and generally lower impact nature of solar farm development whereby the most notable habitats are typically retained and enhanced. In addition, since skylark are a vocal species which actively displays territorial behaviour, it was considered likely that all established territories could be detected by the four surveys with the methods used especially considering the appropriate spread of dates over which the surveys were completed.

3.2.4 The Appeal Site comprised approximately 100ha of mixed use agricultural fields split across two separate parcels (Old Wood North and Old Wood South). Approximately 95ha of the fields were in arable rotation, and therefore suitable for nesting skylark, with the remaining two fields comprising modified grassland.

3.2.5 The assemblage of breeding bird species was assessed as being of Local level ecological importance. An assessment for individual species or groups of species separated by associated habitat type was not given.

3.2.6 Analysis of the pattern and location of territorial behaviour recorded during the surveys indicated that a conservative estimate of eight skylark territories across the planning application boundary were likely to be at least partially supported by the Appeal Site at the time of survey.

3.2.7 One of these eight territories was located in Field 7, which is split in the planning application, with the western half being occupied by solar panels and the eastern half designated as land used for skylark mitigation to receive an enhanced cropping regime which can support a greater number of territories than at baseline. A further single partial territory was present within Field 8, one of the retained further mitigation fields given in the Appeal Scheme but which did not form part of the Application Scheme. Therefore, the

Application Scheme boundary supported eight territories at baseline and the Appeal Scheme supported eight plus part of a further single territory.

3.2.8 This represents a territory density of approximately 0.08 territories per hectare, which is relatively very low even for intensive, winter-sown cereal crops, being approximately one third of that which would normally be expected in such crop and habitats elsewhere in Britain[4].

3.2.9 It should be noted that this total results from a single breeding season's worth of data. The number of territories is subject to annual variation according to the farm's cropping and rotation plan as different management and crop types have different suitability for nesting skylark. In fallow years, or years where spring-sown crops are planted, densities may increase; however these may drop dramatically in years where less suitable crops such as maize or oilseed rape are planted. Indeed, the population dynamics of the wider skylark population are at the mercy of the annual variations of arable management within the entire local region. Therefore, the data can only represent a snapshot in time of the status of skylark at the Appeal Site.

3.2.10 Other notable bird species of conservation concern associated with the footprint of the Scheme (i.e. the open arable fields as opposed to the boundary habitats) were grey partridge and lapwing, although these were rarely recorded during surveys.

3.3 Potential Impacts of the Scheme

Nesting Habitat Displacement

3.3.1 Since the solar panel arrays will occupy the arable land and skylark have evolved to select habitats with relatively short vegetation and long, unbroken sightlines for predator avoidance, it can be reasonably assumed that territories would be displaced from developed fields as they become incompatible with skylark nesting ecology[5]. This predicted effect is corroborated by extensive monitoring of over 100 active solar farms in the UK by Clarkson and Woods and others[6] which has consistently observed the continued foraging by a proportion of skylark within solar farms (including the direct feeding of young within margins and field edges), but no confirmed successful breeding.

3.3.2 The fate of these displaced individuals is impossible to predict. While it is true that many individuals attempt to return to general area in which they either hatched or previously reared young, the pressures of food and habitat availability and other competitive factors are likely to dictate that these birds will eventually disperse elsewhere within the landscape (notwithstanding their natural seasonal population movements and fluctuations) without guarantee of subsequent nesting success. Indeed, it would appear that the gradual decline of singing male birds advertising territories over panelled areas over the first few years following development, with the attendant absence of successful nests, demonstrates a waning 'nest site fidelity' effect as individuals return to previously successful breeding grounds despite females not eventually selecting them as nest sites.

Enhancement of Foraging Habitat

3.3.3 Whereas the Scheme is considered likely to displace breeding habitat, the opposite is considered likely in terms of the Scheme's value as a foraging resource. Research observations[7][8] suggest that solar farms confer a net positive benefit to farmland birds by providing more productive foraging habitat which drives a greater abundance and diversity of this species group compared to on arable systems. For skylark, such research and monitoring work has observed benefits in terms of invertebrate and seed abundance within a permanent and untreated grassland compared to intensive arable, as well as the presence of a variety of perches from which to break up foraging bouts and maintain vigilance. This impact is considered to be especially pronounced for those individuals which nest within a foraging bout's distance from suitable off-site nesting habitat. Indeed, parent birds have ben observed feeding dependent young at the edges of

[4] Donald, P. F. (2004). The Skylark. T & A D Poyser.
[5] Donald, P. F. (2004). The Skylark. T & A D Poyser.
[6] Secker, B. (2024). *The diversity and behaviour of farmland birds on solar parks in the UK* (MSc by Research thesis, Lancaster University, 2024). Available online at https://eprints.lancs.ac.uk/id/eprint/225514/1/2024SeckeMScbyResearch.pdf [accessed January 2026].
[7] https://www.rspb.org.uk/whats-happening/news/solar-farms-managed-for-nature-boost-bird-numbers-and-biodiversity [accessed January 2026]
[8] Copping, J. P., Waite, C. E., Balmford, A., Bradbury, R. B., Field, R. H., Morris, I., & Finch, T. (2025). Solar farm management influences breeding bird responses in an arable-dominated landscape. Bird Study, 72(3), 217–222. https://doi.org/10.1080/00063657.2025.2450392 [accessed October 2025].

solar farms as well as taking food back to nests nearby off site. Consequently, positive impacts of solar farms should be factored into any impact assessment.

3.4 Other Potential Impacts

3.4.1 Pathways of impact on skylark by the Scheme which could also be considered include fragmentation and disturbance.

3.4.2 It is difficult to see how fragmentation might impede the movement or dispersal of bird species such as skylark considering the extent of arable land calculated within the local area and the limited and atomised extent of the Scheme, with neither development parcel measuring more than 900m across. The development is unlikely to pose an obstruction to the normal movement of these birds within the landscape and so fragmentation impacts on skylark here are considered to be not significant.

3.4.3 Disturbance may arise from construction phase noise and vehicle, plant and personnel movement, or operational phase activities associated with habitat and facilities maintenance. While construction phase disturbance is likely, it is considered to result in the progressive displacement of individuals from the construction footprint and thereby have the same end effect as the displacement from nesting habitat as discussed above. While construction phase disturbance will occur over a period of approximately 6months, it will be finite, whereas operational maintenance will be sporadic and relatively minor, but long term. Considering the number of individuals likely to be impacted, and the availability of alternative foraging resources locally while access to those on site are impeded by bouts of disturbance, this impact is considered to be not significant.

3.5 Evaluation of Nesting Habitat Displacement Impact

3.5.1 To provide an evaluation of this impact and its relative significance, some understanding of the local population of skylark is required. There are no widely available published estimates for the population of skylark in Nottinghamshire, so an estimation by some method is necessary. Various research studies place the population of skylark in the UK at between 1 and 2 million pairs or territories, with 1.6million being taken to be the most likely[9]. It is estimated that arable land covers 6.2 million hectares in the UK[10]. Since the majority of skylark in the UK occur on arable land (other habitats such as coastal marshes and upland moorland also contribute)[1], an average territory density on farmland of 0.26 territories per hectare can be calculated. This density is very much aligned with research into territory densities of skylark within arable systems in lowland Britain, with various studies providing a territory density range of between 0.15 (highly intensive cereals) and 0.46 (organic cereals) and a typical average on arable farms of 0.28[12]. In turn, with an arable farmland coverage in Nottinghamshire of around 100,000ha[11][12], one can reasonably predict there to be a county-wide population of approximately 27,000 pairs or territories of skylark. For a more conservative estimate in the context of the Appeal Site's density of 0.08 territories/ha, a lower population of only 8,000 territories is produced, although a density of 0.08 is likely only to be reliably representative of the local area, perhaps at a parish or a district scale at most.

3.5.2 Extrapolating this population estimate to Rushcliffe District alone is difficult, but farmland is estimated to cover 31,412ha in the district[13], of which arable predominates. As a proportion of farmland, arable is often cited as making up 65% to over 85% according to the whereabouts within the UK. If we were to assume conservatively that 85% of the farmland in Rushcliffe District is arable, this would give an approximate estimate of 27,000ha of arable land. Since we wish to take a precautionary approach, applying a low territory density, for example 0.08 (that recorded on the Appeal Site) to this figure (thereby assuming that skylark are substantially rarer in the district than compared to the norm for lowland UK habitats) would provide lower estimate of 2,160 skylark territories for the district. The 8 territories on the Appeal Site therefore could represent *up to* approximately 0.37% of the district's population.

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[9] Woodward, I., Aebischer, N., Burnell, D., Eaton, M., Frost, T., Hall, C., Stroud, S., & Noble, D. (2020). APEP 4 - Population estimates of birds in Great Britain and the United Kingdom. British Birds, 113(3), 69–104.
[10] https://www.gov.uk/government/statistics/agricultural-land-use-in-the-united-kingdom/agricultural-land-use-in-united-kingdom-at-1-june-2023
[11] https://nottsbag.org.uk/wp-content/uploads/2020/10/Farmland-and-arable-HAP-version-2009.pdf
[12] https://www.gov.uk/government/statistics/agricultural-facts-england-regional-profiles/agricultural-facts-east-midland-region
[13] https://www.rushcliffe.gov.uk/about-us/about-the-council/policies-strategies-and-other-documents/accessible-documents/rushcliffe-nature-conservation-strategy/

3.5.3 In ecological impact assessment, a typical threshold used to determine whether a potential impact on a designated site is likely to be significant – and at which geographic scale it might be felt – is 1%. If an action is deemed likely to impact 1% or more of, for example, the population of a protected species supported by a designated site, the impact may be said to be significant in terms of affecting its ecological integrity, and be felt at the geographic scale which best matches the importance of the designated site. While not universally accepted across impact assessment for species, a 1% threshold could serve as a useful broad indicator.

3.5.4 With the 0.37% figure well below the nominal 1% threshold, and with the number of territories needing to be at least 2.7 times greater by even the most conservative estimates to reach it, it is logical to ascribe a Site - level valuation to the population of skylark supported by the Appeal Site. By any measure, this is a small population of this species and this valuation has also been agreed with by the RBC (see Item 3 in the signed Statement of Common Ground on Skylark and paragraph 3.4.3 of RBC's Statement of Case).

3.6 Review of Mitigation and Assessment of Residual Effects

3.6.1 Types of mitigation can broadly be divided into two categories; those which reduce adverse impacts through the intrinsic design choices made in the development of proposals and so are 'embedded'; and those which are added to the scheme with the principal purpose of reducing impacts and so are considered 'additional' to the scheme's basic design. This review has separated the mitigation elements of the scheme along these lines and introduces potential further additional mitigation which may be secured through the Appeal Scheme.

Embedded Mitigation Within Planning Application

3.6.2 The embedded mitigation within the planning application comprised the management of approximately 95ha of permanent grassland beneath and around the panels and associated infrastructure. As already detailed, it is observed that skylarks often forage within the margins of solar farms[14] since the abundance of invertebrate prey items is higher in permanent grassland habitat as opposed to intensive arable land. Juvenile skylarks are preferentially fed on soft-bodied invertebrates, principally spiders, which can be expected to occur in greater abundance within the grasslands under and surrounding solar panels. Indeed, adult skylark have been observed feeding young within solar farms on several occasions and are known to lead their young away from nest sites to feeding sites at an early age[15]. Clarkson and Woods' (and others'[16]) observations of skylarks using solar farms preferentially for foraging and as 'nursery' sites where precocial young are fed suggests that the presence of a solar farm confers an advantage to territories held on suitable adjacent farmland. While no data yet exists to quantify the effect, it is therefore considered also likely that an increase in 'carrying capacity' (i.e. the number of territories a habitat is able to support) is conferred to habitat or territories located within a foraging bout's distance from a solar farm. Therefore, it is reasonable to assume that a proportion of territories which are either partially or fully displaced by development may be 'absorbed' in this way into nearby suitable habitats.

3.6.3 An article published in 'In Practice', the journal of the Chartered Institute of Ecology and Environmental Management in 2022 suggested that this 'edge absorption' effect may be factored into impact assessments by assuming that 50% of territories occurring within approximately 75m of site boundaries may be absorbed in this way, where suitable nearby receptor habitat exists.

3.6.4 Taking a precautionary approach, and factoring in the eventual presence of the consented HSF scheme to the immediate west, we identify that two such territories are able to be absorbed into neighbouring suitable and available arable land. These are the territory in the north eastern corner of Old Wood South (Fields 10 and 11) and the territory within the south east of Old Wood North (Field 7). This is a very modest and realistic number and leaves a net displacement impact of six territories after this embedded mitigation is considered. Six territories would equate to *up to* approximately 0.28% of the district's estimated skylark territories.

[14] H. Montag, G Parker & T. Clarkson. 2016. The Effects of Solar Farms on Local Biodiversity; A Comparative Study. Clarkson and Woods and Wychwood Biodiversity.
[15] Fox, H. (2022). In Practice, 117, 47–51. September 2022. CIEEEM, London.
[16] H. Montag, G Parker & T. Clarkson. 2016. The Effects of Solar Farms on Local Biodiversity; A Comparative Study. Clarkson and Woods and Wychwood Biodiversity.

Additional Mitigation Within Planning Application

3.6.5 Additional mitigation proposed within the planning application comprised the seeding and management of 3.62ha of Field 8 (an open, elevated field located east of the northern parcel to the south of Lodge Farm) as either 'set-aside' habitat or a spring-sown cereal crop, which are both of greater suitability for nesting and foraging skylark than baseline arable habitats.

3.6.6 The mitigation field is considered to be physically suitable in terms of size, configuration and presence of long sightlines for skylark nesting, as well as being adjacent to the site of displacement. The aforementioned journal article on skylark impact assessment and mitigation suggests precautionarily that, in the absence of evidence to show that skylark are already present at baseline within a candidate receptor location, such fields should have a short axis of at least 200m (and so measure at least 4ha in total) and not be bound by tall features such as buildings or woodland. All these criteria are met by this field. Additionally, skylark were already found holding one territory within it at baseline, which is clearly a strong indicator of suitability.

3.6.7 The above criteria are based on an understanding of the nesting requirements of skylark, including the general tendency not to place nests in close proximity to field edges or tall structures despite them being part of their territory extent (e.g. for foraging). The minimum suggested field sizes (in the absence of pre-existing evidence of usage) take into account this nest-site selection behaviour and incorporation of such zones into territories. Indeed, the territory maps produced as part of the original impact assessment also incorporate such spaces. It is not clear to what industry standard and/or peer-reviewed methodology is being referred within RBC's Statement of Case (see Item 12 in the signed Statement of Common Ground) when '50m buffers' are mentioned. This is not part of the aforementioned journal article and there is no need to factor in a further 50m buffer as the methodology in the article factors this in by ensuring any receptor field is substantially larger (by approximately 50m at boundaries) than the likely minimum area of a typical skylark territory in a lowland farmland setting, thus allowing for the fact that nests are unlikely to be found in close proximity to hedgerows. The candidate field is therefore evidently large enough to accommodate territories within the present and future habitat types accounting for any influence of boundary hedgerows. The method indicated by RBC does not appear to acknowledge the above considerations.

3.6.8 The landscaping proposals show the planting of new trees and hedgerows at the edges of the mitigation field for visual impact mitigation reasons. The quantity and arrangement of trees is in keeping with the presence of trees within existing hedgerows. Shelter belts, dense lines of trees or woodlands are often used for this same purpose but this is not the case at the edges of the mitigation fields. As such, tall features of the kind which might be expected to dissuade skylark from nesting are not being imposed.

3.6.9 Research[17][18] shows that territory densities in the proposed mitigation habitats are in the region of 0.46 (spring-sown cereals) to 0.56 (set-aside) territories per hectare. It can be calculated following a published, peer-reviewed methodology[19], that even factoring in an existing baseline territory density at the mitigation land of approximately 0.2 territories per ha (a precautionary density which *more than* accounts for the above partial territory), between 1 and 2 of the displaced territories could be accommodated by the mitigation land. This would lead to a residual displacement of 4 or 5 territories by the planning application scheme which represents an extremely small proportion (0.19%-0.23%) of the district skylark population. This residual impact is considered to be of Site level significance in ecological terms, which is the lowest level of effect significance which can be ascribed under the CIEEM Ecological Impact Assessment guidance.

3.6.10 The table below summarises the percentage of the various estimated populations (from Section 3.4) at different scales that the number of territories discussed so far represent.

[17] Donald, P. F. (2004). The Skylark. T & A D Poyser.
[18] S. Browne , J. Vickery & D. Chamberlain (2000) Densities and population estimates of breeding Skylarks Alaudaarvensis in Britain in 1997, Bird Study, 47:1, 52-65
[19] Fox, H. (2022). In Practice, 117, 47–51. September 2022. CIEEEM, London.

Table 1. Estimated residual unmitigated territories after all mitigation considered, in a population context.

Appeal Site Territories / Population	UK: 1.6m territories (6.2m ha arable, 0.26t/ha)	Nottinghamshire: 27,000 (100,000ha arable, 0.26t/ha)	Rushcliffe District: 2,160 (27,000ha arable, 0.08t/ha)
8 (total)	0.0005%	0.03%	0.37%
6 (after natural 'absorption'))	0.0004%	0.02%	0.28%
4-5 (with 3.62ha mitigation factored in)	0.0003%	0.01-0.02%	0.19-0.23%

3.6.11 It is clear that by any measure either the residual number of displaced territories or the absolute number of territories on the planning application site at baseline is very small. Here, we are in no danger of approaching the nominal 1% threshold at any geographical scale and it may even be justifiable to declare that the impact post additional mitigation (i.e. factoring in the design avoidance, absorption and 3.62ha of mitigation habitat) is negligible. However, a Site level residual significance is a comfortable and conservative position to take and accords with a residual significance classification of 'not significant' when the conventional 'not significant, low, medium and high' categorisation is used, as in other environmental disciplines.

3.6.12 The above exercise supports the position that the mitigation provided as part of the Application Scheme is proportionate and, although it does not do everything to remove the impact, the residual effect of the Application Scheme in isolation is minimal and should be capable of being outweighed in the planning balance by the various benefits of the Application Scheme, including those for ecology such as Biodiversity Net Gain commitments.

Potential Further Mitigation Offered by Appeal Scheme

3.6.13 As part of the appeal some minor changes have been made to the Scheme. These are set out in a Summary of Changes document prepared by Exagen, September 2025. These changes have been consulted upon by the Appellant and the decision on whether or not to accept the changes will rest with the appointed Planning Inspector. One of these changes includes 6.75ha of additional land adjacent to the Appeal Site which is available for management and use as further skylark mitigation habitat. This would be managed in the same manner as the 3.62ha already proposed in Field 8 discussed in the previous section.

3.6.14 The land is physically suitable for skylark nesting, with Field 8 having been seen to host at least one skylark territory at baseline, being adjacent to the original mitigation land and adjacent to part of the solar farm (i.e. lying in close proximity to the displacement). The fields are not surrounded by woodland or buildings and the hedgerows are generally regularly managed and low (i.e. not outgrown), with occasional semi-mature and mature trees which are generally well spaced apart. The general suitability and relative attractiveness would be enhanced further through their favourable management specifically to support nesting and foraging skylark.

3.6.15 It has been asserted in the RBC Statement of Case that the northernmost of these further mitigation fields is unsuitable due to the presence of overhead cables running above the field. It should be pointed out that the cables in question are part of a 33kV low-medium Distribution Network Operator cable run installed on wooden posts which runs west to east across the entire Old Wood North land parcel (Fields 1-4) which already host observed skylark territories. While it is accepted that significant tall features such as buildings and woodland can reduce skylark proximate nesting habitat suitability, clearly this feature is not having such an effect at the Appeal Site. This observation is also borne out in recent research which shows that the presence of low-medium voltage cables of this type is not an accurate predictor of skylark absence[20].

3.6.16 Whilst this land is located outside of the planning application boundary it is located within land the Appellant has control over and as such can be adequately secured via a Grampian planning condition and does not require a S106 or other legal agreement. This additional mitigation land area, and the land

[20] (Klaus, S., Liew, J.H., Müller, C., & Jechow, B., 2025).

the Appellant has control over (blue line boundary), are included on the submitted Enhanced Landscape Strategy Plan.

3.6.17 Table 2 below gives estimates for the number of territories which could be accommodated by the additional 6.75ha of mitigation land depending on management prescriptions (i.e. either spring-sown cereals or set-aside, as before) and two possible assumptions for the existing baseline skylark territory density in the mitigation fields (one being a nationwide average for winter cereals derived from research and the other being the observed density on site). It is shown that 2 to 3 whole territories can evidently be mitigated on this additional land. Although 3.24 is the maximum figure given, territories cannot be split over two separated parcels, so only whole territories should be considered, thereby meaning a maximum of 3 could be accommodated.

Table 2. Estimations of territory numbers mitigated by additional mitigation

Mitigation type/ Baseline territory density	0.15 (derived from research)	0.08 (observed on the Site)
Spring-sown cereals (ha)	2.09 terrs.	2.57 terrs.
Set-aside (ha)	2.77 terrs.	3.24 terrs.

3.6.18 Therefore, with a total of 10.37ha of mitigation land, a total of between 3 and 5 territories could be accommodated between this further mitigation and that already put forward in the planning application. This would be considered sufficient to reduce the residual impact from the development in isolation to negligible levels, with the remaining 1-3 territories being well within an expected margin of annual population fluctuations the local population is likely to experience[21][22][23].

3.6.19 The residual loss as a % of total skylark populations, nationally, at a county and district level are reflected within the Table 3 below alongside the analysis and population estimates previously presented in Table 1, for comparison.

Table 3. Estimated residual unmitigated territories after all mitigation considered, in a population context.

Appeal Site Territories / Population	UK: 1.6m territories (6.2m ha arable, 0.26t/ha)	Nottinghamshire: 27,000 (100,000ha arable, 0.26t/ha)	Rushcliffe District: 2,160 (27,000ha arable, 0.08t/ha)
8 (total)	0.0005%	0.03%	0.37%
6 (after natural 'absorption'))	0.0004%	0.02%	0.28%
4-5 (with 3.62ha mitigation factored in)	0.0003%	0.01-0.02%	0.19-0.23%
1-3 (with 3.62 and an addition parcel of 6.75ha factored in)	**0.0001%[24]**	**0.007%**	**0.093%**

3.7 Conclusion

3.7.1 An objectively low number of skylark territories (6) stand to be displaced by the Scheme. Taking into account the context of the estimated local, regional and UK population context for skylark, the potential significance of residual effects is low. Proposed mitigation in the form of 3.62ha of sensitively managed farmland on a suitable field would likely accommodate 1-2 skylark territories, reducing the residual impact arising from the Application Scheme further, to a 'Site-level' ecological effect.

A further 6.75ha of suitable farmland is available for mitigation use through the Appeal Scheme which is estimated to be able to accommodate a further 2-3 territories which would bring the residually displaced number of territories down to between 1 and 3, a level of residual impact which is considered 'not

[21] Eglington SM & Pearce-Higgins JW (2012) *Disentangling the relative importance of changes in climate and land-use intensity in driving recent bird population trends*, PLoS ONE 7(3): e30407.
[22] British Trust for Ornithology (BTO), RSPB, JNCC & Defra (2025) *Wild Bird Populations in the UK and England, 1970-2024*. GOV.UK official statistics.
[23] Donald, P. F. (2004). The Skylark. T & A D Poyser.
[24] Where a % of a range (e.g. 1-3) is required the average % within this range is presented.

significant' and well within an expected margin of annual population fluctuations the Appeal Site is likely to experience.

4 REVIEW OF THE CUMULATIVE IMPACTS OF THE PROPOSED DEVELOPMENT UPON SKYLARK

4.1 Introduction

4.1.1 This section will review the potential cumulative impacts of the Appeal Scheme in relation to the adjacent Highfields Solar Farm (HSF) development. It will look at the role of cumulative assessment in describing the likely effects of development and in determining the need and scale of mitigation.

4.2 Applicability of Cumulative Effects in Mitigation Design

4.2.1 An assessment of cumulative effects is intended to identify whether the combined impacts of multiple developments may together give rise to significant effects. Within Item 6 of the signed Statement of Common Ground (CD 8.3.3) RBC's ecologist highlights that RBC requires the Appellant not to mitigate for the HSF scheme, but rather to mitigate for its contribution to the cumulative effect of the two schemes. We would entirely agree that it is not for the Appeal Scheme to provide mitigation for the HSF development. To do so would be unreasonable and counter to established guidance on cumulative assessment. The cumulative assessment process does not require an applicant to design mitigation for impacts which have already been assessed and accepted to be negligible in separate consented schemes (Planning Inspectorate, Advice on Cumulative Effects Assessment[25], 2024). (Planning Inspectorate, 2024; CIEEM, 2018).

4.3 Review of Conclusions Within the Appeal Scheme EcIA and HSF EcIA

4.3.1 In the Ecological Assessment Report[26] prepared for the HSF application it is observed that "11 territories are located through and immediately adjacent to the development". However, paragraph 4.4.8 concludes that impacts of that development on skylark are likely to be negligible:

"*Birds nesting on open ground, such as skylark, may be temporarily displaced as a consequence of the proposed development; however, in the context of comparable habitats locally, the area lost will be small and will comprise habitats of sub-optimal quality. Whilst some level of displacement may occur, the impacts of habitat loss are considered to be negligible*".

4.3.2 On this basis, no mitigation for potential effects on skylark was proposed and planning consent was awarded accordingly. In planning terms, therefore, there is no residual effect from Highfield Solar Farm to take forward into the determination of mitigation of cumulative impacts of the Appeal Scheme. This being the case there would be no potential cumulative impact as the HSF development has no impact upon skylark. This approach is consistent with BS 42020:2013[27], which requires ecological assessment and mitigation to be proportionate, evidence-based, and founded on the available ecological information informing the original planning decision.

4.3.3 However, we are of the opinion that, in line with the reasoned impact assessment for the Appeal Scheme, the assessment of residual effect on skylark for the HSF scheme is incorrect to state that territory displacement will be 'temporary' and that impacts would be 'negligible'. In reaching this conclusion the HSF EcIA cites a Clarkson & Woods & Wychwood Ecology study – The effects of solar farms on local biodiversity: A Comparative Study[28], and the assessment indicates that this study highlights that ground nesting bird species may nest between rows of panels. This appears to rely upon an interpretation of the study which is not consistent with its stated findings, which actually say "*the study shows that skylarks do not nest within the footprint of the array*". It does state that skylark forage within arrays and that habitats within arrays may be incorporated into surrounding foraging territories. It is our view that the conclusion of the HSF assessment was unsound and based upon an incorrect interpretation of literature on skylark nesting ecology with reference to solar farms. This is evidently a difference of professional opinion and leads to the following statement in paragraph 3.6.5 of the Appeal Scheme EcIA (CD 3.8):

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[25] Planning Inspectorate (2024). *Advice on Cumulative Effects Assessment*. London: The Planning Inspectorate. Available at: https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-cumulative-effects-assessment

[26] Highfield Farm Solar Farm, Costock Ecological Assessment Report. November 2022. Avian Ecology https://planningonline.rushcliffe.gov.uk/online-applications/files/C82BBA1E0C16546EBCD276C2690A381C/pdf/24_00046_OHLS37-ECOLOGICAL_ASSESSMENT_REPORT-1792978.pdf

[27] British Standards Institution (2013). *BS 42020:2013 – Biodiversity — Code of Practice for Planning and Development*. London: BSI.

[28] H. Montag, G Parker & T. Clarkson. 2016. The Effects of Solar Farms on Local Biodiversity; A Comparative Study. Clarkson and Woods and Wychwood Biodiversity.

"Considering the proximity of this project to the proposed Scheme, it is considered likely that a modest increase in the previously identified residual adverse displacement effect of skylark territories may occur, causing it to be felt at a Local, rather than Site scale."

4.3.4 It should be reiterated that the above passage was included for transparency and as a precaution to characterise the possible interaction between the schemes in the light of the Appeal Scheme's own assessment of its impact on skylark and the similarity in nature of the two schemes. Understanding the precise nature of this interaction is in our view impossible considering the level detail of information presented in support of the HSF development. Such an assessment would require us to dismiss the accepted findings of the HSF application, conceptually design mitigation for the scheme, decide on the level of residual impact associated with the application and use this residual impact as the basis for a cumulative impact assessment. So many assumptions would be required in order for a conclusion to be drawn on the cumulative impacts of the scheme and therefore allow an accurate assessment of cumulative impact. In addition, the HSF scheme identifies that "11 territories are located through and immediately adjacent to the development" such that there is no assessment or indication as to the number of territories considered likely to be lost as a consequence of the development, especially since land immediately adjacent to the scheme is included in this description. Furthermore, while baseline bird survey data is broadly provided within the supporting information, there are no associated behavioural data which would be necessary to make a reliable evaluation of territories at risk of impact. It would also be entirely beyond the scope of the assessment made for the Appeal Scheme to update baseline survey data for the HSF scheme to enable its potential residual impact to be calculated.

4.3.5 As discussed, it does not follow, according to both Item 6 of the agreed SoCG and PINS' guidance on cumulative assessment, that the Appeal Scheme's characterisation of HSF's impact on skylark should necessitate its mitigation to be incorporated into the Appeal Scheme's existing provision. It is unreasonable to expect a scheme to repeat impact assessments of all those within a cumulative assessment where there is a difference of professional opinion or methodology. This is especially the case since the HSF scheme deemed not to provide mitigation and consent was awarded on this basis. Instead, it would seem more reasonable for the Appeal Scheme, in the consideration of the cumulative impact assessment, to take the assessment presented and accepted by RBC in the approval of that scheme to be correct. This therefore underlines the application of HSF's conclusion of negligible impact as the basis for determination of mitigation need for the Appeal Scheme's cumulative impacts.

4.3.6 Furthermore, it is also unclear as to on what basis RBC now appears to support the presence of a cumulative effect having consented HSF, a scheme with no such mitigation, bearing in mind that the Appeal Scheme supports fewer territories and will result in residual effects only at Site level (to which RBC are in agreement – see RBC's Statement of Case paragraph 3.4.3). It is not clear whether RBC now are of the opinion that the HSF scheme would in fact give rise to a significant effect on skylark requiring mitigation.

4.4 Discussion of Potential Cumulative Assessment Incorporating a Mitigated HSF Scheme

4.4.1 While it is our view that it would be impossible to undertake a retrospective impact assessment for the HSF Scheme, and that a baseline of negligible impact on skylark is the most reasonable cumulative assessment basis, a further sensitivity testing exercise is possible for robustness' sake. If it is assumed, that the residual effects of both developments were parable and that the HSF scheme had, within their own assessment, incorporated mitigation to the same standard as the Appeal Scheme, we may be able to surmise a theoretical cumulative effect and negates the pitfalls of conducting a retrospective impact assessment.

4.4.2 In the preceding chapter of this PoE, I set out how the residual impact of the Appeal Scheme is now, with the inclusion of additional, and potential further, areas for mitigation, at an extremely low level and consistent with natural fluctuation in skylark populations, especially within an intensive arable farming context. Whilst there is an acknowledged residual impact of approx. 4-5 territories (or 1-3 territories with the potential further mitigation factored in) this level of impact should be used as the basis for a cumulative impact associated with the Scheme.

4.4.3 The embedded mitigation and 3.62ha of additional mitigation brings about a reduction in impact by 37.5% - 50% at the Application Scheme. If on a precautionary basis we assume that all 11 territories within the HSF scheme are indeed on site and stand to be displaced, then adopting this same standard of mitigation might bring about a residual displacement of between 4 and 7 territories. Added to the 4-5 territories lost from the Application Scheme this indicates a residual cumulative impact of between 8 and 12, which represents a maximum 0.5% of the district's estimated population.

4.4.4 Factoring in the 6.75ha potential further mitigation through the Appeal Scheme, this would bring about a reduction by 62.5% - 87.5%. In the same way, if we use the most precautionary estimates, then the HSF Scheme may bring about a residual displacement of between 1-4 territories. Added to the 1-3 territories lost from the Appeal Scheme this indicates between 2 and 7, which represents as a maximum 0.32% of the district's estimated population.

4.4.5 In our view the above precautionary figures are again very small and strongly indicate there would only be a site level effect at most were the HSF Scheme to have adopted the equivalent approach to mitigation.

4.5 Conclusion

4.5.1 In conclusion, cumulative effects with the HSF development have been appropriately considered. Consistent with Planning Inspectorate guidance and BS 42020, the Application Scheme and Appeal Scheme are responsible for mitigating its own impacts and its contribution to cumulative effects, not for retrospectively compensating for another consented scheme where no mitigation was put forward or requested.

4.5.2 On the basis of the accepted HSF assessment, no residual impact exists and therefore no material cumulative effect arises. Alternatively, even if equivalent mitigation had been applied, the combined residual impact would remain limited to approximately 7 territories, consistent with natural population variability and constituting, at most, a minor site-level effect over both schemes.

4.5.3 In either scenario, no significant cumulative impact arises that would justify the dismissal of the appeal.

5 REVIEW OF THE WIDER ECOLOGICAL EFFECTS OF THE APPEAL SCHEME

5.1 Introduction

5.1.1 The proposed layout and design of the Appeal Scheme is illustrated by the Enhanced Landscape Strategy (CD 3.6).

5.1.2 Within this section I consider the habitat baseline and how this compares to the proposed habitats post-development. I also consider how by way of these habitat changes, a range of wildlife will benefit from the Scheme when it is considered on a larger scale.

5.1.3 As part of this assessment work, update ecological surveys have been completed, together with a biodiversity net gain assessment of the Appeal Scheme, the findings of which are presented within CD 3.8.

5.2 Habitats Considered within Developmental Design

5.2.1 The following habitats have been identified as being present on the site, pre-development:

- Arable land – cereal crops (94.89ha)
- Modified grassland (3.97ha)
- Mixed scrub (0.03ha)
- Ruderal vegetation (2.53ha)
- Broadleaved woodland (0.04ha)
- Non-priority habitat ponds (0.02ha)
- Developed land, both sealed and unsealed (1.66ha)
- Native hedgerows, some species-rich and some associated with ditches (8.75km overall)

5.2.2 Within the proposals, the following habitats would be created:

- Modified grassland (66.36ha)
- Other neutral grassland (25.29ha)
- Mixed scrub (1.44ha)
- Broadleaved woodland (2.38ha)
- Developed land, sealed surface (3.37ha)
- Native species-rich hedgerows, some with trees (2.64km overall)

5.2.3 Within the proposals, there will be a significant reduction in the scale of land under arable rotation (a loss of over 92ha) which provided limited foraging and sheltering opportunities for wildlife. Instead, the proposals include the creation of large areas of modified grassland suitable for grazing within the array footprint, as well as large corridors of other neutral grassland both within the field margins and in other easements within both parcels of the site.

5.2.4 The proposals sought to protect areas of biodiversity interest, such as existing ponds and broadleaved woodland, as well as retaining hedgerows wherever possible and using existing field entrances. The design has been sensitively produced to create the maximum benefit to wildlife and biodiversity.

5.2.5 A Biodiversity Net Gain (BNG) assessment was undertaken using the Statutory Metric and the full calculations are available CD 3.8.

5.2.6 The outcome indicates that a 73.69% gain in nonlinear habitats and a 60.77% gain for linear habitats will be achieved. This is a considerable gain in both habitat types and is due to the removal of large areas of arable crop and the seeding of species-rich grassland (both modified and other neutral), as well as mixed scrub and broadleaved woodland. Within the Metric, it is acknowledged that arable land offers low biodiversity value. In addition, the BNG calculation indicates a net gain of 0.34 watercourse units, equating to a 14.4% change.

5.3 Species Considered within Developmental Design

5.3.1 The following species have been considered when designing the landscape proposals:

- Badger
- Bats (foraging, commuting and roosting)
- Otter
- Great crested newts
- Reptiles
- Wintering birds
- Breeding birds

Badgers

5.3.2 Seven badger setts were identified within the initial walkover survey, which had increased to eight when the site was resurveyed in 2025. This included one large main sett. All setts are due to be retained and protected throughout construction, with wide buffers in place throughout. It is considered that the post construction proposals of species-rich grassland, as well as native copse and woodland planting will provide suitable commuting corridors for badgers within the wider landscape, as well as providing optimal foraging habitat. Overall, there are expected to be no negative residual impacts on badgers.

Bats (foraging, commuting and roosting)

5.3.3 The cereal crops covering most of the site will provide suboptimal foraging habitat for bats, although some areas of modified grassland and the on-site pond will provide suitable invertebrate foraging resources. The site was well connected for commuting within the surrounding landscape by a network of mature but often gappy hedgerows. Additionally, 15 trees were noted to provide roosting potential to bats. All trees will be retained, with a number of gappy hedgerows being enhanced, and a total of 2.64km of new species-rich hedgerow being created.

5.3.4 Although the impacts of solar farms on foraging and commuting bats is poorly understood, the scheme has been designed to protect hedgerows which provide dark commuting corridors, as well as including buffer zones between all hedgerows, woodland and watercourses and the array. Additionally, the creation of species-rich grassland throughout the proposals will provide invertebrate-rich feeding opportunities for many species of bat. It is hoped that this will be enough to allow bats to continue using the site for commuting and foraging.

5.3.5 The layout has also been carefully designed to avoid impacts on any trees which present roosting opportunities for bats. Finally, a number of bat boxes will be installed on retained trees, providing further roosting opportunities.

5.3.6 It is therefore considered that negative residual impacts to both foraging, roosting and commuting bats have been avoided as much as is possible within the realms of current research and knowledge on the matter, with all steps taken to continue to provide suitable resources for them on site. It is not unreasonable to assume that in the long-term, there will even be a slight positive residual impact on bats as the habitats on site will be far less intensively managed and will therefore offer much higher suitability for foraging opportunities.

Otter

5.3.7 Although no signs of otter presence were noted during either site survey or during the two targeted water vole surveys, it is understood colloquially that the species is present along the Kingston Brook which crosses through the southern parcel of site. A free-span bridge will be erected over the Brook to facilitate access for heavy plant during the construction and operation phases, and we have suggested that a pre-construction survey of the feature be undertaken prior to works starting. All protective measures will be detailed within a CEMP. It is therefore assumed that there will be no negative residual impacts on otter throughout the operation phase.

Great crested newt

5.3.8 Four ponds are present within the site boundary, and a further 11 ponds are present within 250m of the boundary line. Ponds where access was permitted and where water was present were tested for GCN presence through eDNA testing in 2022. One pond on site returned a positive result for GCN eDNA (Pond

10 in the southern parcel), and three others outside the boundary were also positive. It was still accepted that the arable land surrounding the on-site pond and throughout the site extent was suboptimal due to the nature of intensive management and low invertebrate suitability and was therefore likely to only be used by GCN for commuting rather than foraging or sheltering. Due consideration was given to the species when designing the proposals with a minimum of a 50m buffer for all construction around GCN positive ponds, and a specific method statement for sensitive works will be produced within the site's CEMP.

5.3.9 During the operational phase of the site, it is assumed that the new habitats of species-rich, less intensively managed grassland, as well as enhanced hedgerows will provide optimal foraging habitat for GCN and the site will therefore likely provide a positive impact on GCN and other amphibians using the site and the surrounding land.

Reptiles

5.3.10 Although no reptiles were encountered during any site visits, it was noted that some areas within the boundaries offered suboptimal foraging and sheltering habitat for this group, however the arable land was broadly unsuitable for use by reptiles. Although there were some areas of grassland noted within the site, these were not extensive in area, and in one instance the field was noted to be damp, which reduces the suitability.

5.3.11 A precautionary approach to habitat clearance will be undertaken during construction so as not to harm any reptiles which may be present, although it is acknowledged that their presence is unlikely. Additionally, the establishment of species-rich grassland and enhanced hedgerows will provide a substantial increase in the suitability of the site for common, widespread reptile species, therefore resulting in a positive residual effect for reptiles.

Wintering and breeding birds (excluding skylark)

5.3.12 Throughout the 2022-23 winter season, four winter bird surveys (WBS) were undertaken at the site, with a number of both red and amber listed birds of conservation concern present, such as lapwing, woodcock and skylark. Although flocks of winter thrushes were not observed in high numbers, the fields were still identified as offering suitable winter foraging habitat for a number of species, as well as the ponds providing an important resource for a number of ducks and geese.

5.3.13 Throughout 2022, four breeding bird surveys (BBS) were undertaken at the site, again with multiple red and amber listed birds of conservation concern present. Most of the 54 species present were noted within the boundaries and hedgerows throughout the site, with the arable fields providing limited suitability for most birds except for skylark, lapwing and grey partridge. It was also noted that the crops present within the fields is rotated annually which can alter the suitability of the habitats in any given year for birds which forage and nest within arable land.

5.3.14 Although there is to be a large loss of arable land within the proposals, which will negatively impact some farmland specialist birds, it is important to recognise that the overall quality of the foraging, sheltering and breeding opportunities will be increased for all other bird species. The species-rich grassland to be seeded throughout the array and within field margins and easements will be managed sensitively and in a way which will increase invertebrate diversity and therefore will provide a much higher foraging resource for birds using the site and the local area.

5.3.15 It is likely that many other amber and red listed birds of conservation concern will benefit from the proposed development and that bird species which use the site for breeding will increase over time as the grassland habitat establishes. It is important to see the benefits of the site at a landscape level and understand that the proposed habitats will likely offer more of a habitat which is useable for a wider range of species and will likely increase biodiversity as a whole.

5.4 Conclusions and Commentary

5.4.1 The Scheme has been designed with biodiversity in mind, with buffer zones, risk avoidance method statements, and sensitive working methodologies proposed to ensure that the construction phase does not result in any harm or disturbance to wildlife. The operational phase of the Scheme is unlikely to result in negative effects for most species and this has been specifically considered within the consultation process of the landscaping and array design.

5.4.2 Overall, it is not envisaged that there will be any significant adverse impacts on any of the ecological receptors listed above apart from a small number of farmland-specialist birds which have previously relied on the arable land for breeding. It is entirely plausible that the Scheme will actually increase biodiversity within the red line boundary due to the removal of intensively farmed arable fields and the enhancement of this land to species-rich grassland, with various seed mixes used throughout. Although some species such as skylark will be disadvantaged through these changes, the proposals should be considered as a whole as a wide range of wildlife is set to actually benefit from the changes proposed to the land.

5.4.3 The BNG assessment completed for the site demonstrates that the proposal delivers a substantial net gain of 73.69% for non-linear habitat units and 60.77% for hedgerow units.

6 REVIEW OF THE THIRD PARTY CONSULTATION COMMENTS

6.1 Introduction

6.1.1 This section will review the key third party c0omments raised during consultation on the planning application and Appeal Scheme.

6.2 Nottinghamshire Wildlife Trust ('NWT')

6.2.1 "The [Ecological Impact Assessment] predicts a loss of 6 skylark territories from Old Wood proposed solar farm (we think this is 7) and, potentially, 11 will likely be displaced from the consented Highfields Farm application. This makes a total of 17 (or 18) territories lost. With the skylark mitigation area, if successful, only able to support one breeding pair, we do not find that the mitigation proposed is adequate. The EcIA acknowledges there will be a residual impact on skylark (3.5.67). With residual impacts arising from both applications, mitigation proposals for skylarks requires further consideration. We would certainly expect to see a more detailed and robust cumulative impact assessment regarding skylark and all ecological receptors, following CIEEM Guidelines for EcIA. Other environmental impacts should also be subject to a cumulative impact assessment."

6.3 Wysall Action Group (Neil Hartley)

6.3.1 "In relation to the Breeding Bird Survey Report carried out by Clarkson and Woods, we would question the methodology used as our understanding is that the British Trust for Ornithology (BTO) Common Birds Census (CBC) guidelines followed became obsolete in 2000. Current guidance for ecologists (htps://birdsurveyguidelines.org/methods/surveymethod/) suggest 6 site visits including one night time visit, this has not been followed here and the survey should be deemed insufficient and unreliable on that basis. Commenting on what was found however, Sky larks are a red listed protected bird species. There were 12 skylark territories on the Highfield site that has been approved and 8 on the Old Bunny Wood. The Old Bunny wood skylark population mitigation is 3.62 Ha in an undeveloped field, there is no replacement mitigation for the Highfield skylarks, which would have potentially migrated to the Old Wood site. No one, even the RSPB, can say what will happen to the sky larks but we cannot be optimistic as to their fate. So no longer will we hear the 'lark ascending 'as we walk the midshire way. How can anyone propose that a 3.62 area of grassland will suddenly be an attraction for nesting skylarks currently having 100 hectares as their available natural habitat – the proposed mitigation is clearly inadequate and the application should be refused on this basis."

6.4 Commentary on Key Consultee Comments

6.4.1 As set out in the Appellant's Statement of Case (Section 4), NWT's claim that the mitigation put forward at the planning application stage could only support one displaced skylark territory is misleading and fails to take into account the likely positive effects of the reversion of intensive arable to permanent grassland within a solar farm on the foraging success of a proportion of those birds displaced from its footprint (as given in Section 3 of this PoE). This is in line with recent advice within the industry on the assessment of development impacts on ground-nesting birds and is described as an 'absorption' of a subset of on-site baseline territories located towards the edges of fields which will neighbour existing arable land (see Section 3 for more detail). As such, it is estimated that from the pre-mitigation total of 8 territories at risk of displacement by development, an estimated 3-4 territories would remain uncatered for by the planning application scheme once both the original mitigation land and absorption effect are factored in. This was considered to result in a minor residual adverse effect at a Site level. It should be noted that the Appeal Scheme increases the quantum of mitigation land bringing this figure down to a residual 1-3 territories uncatered for (see Section 5 of the Appellant's Statement of Case), which would constitute a non-significant effect. This matter is discussed further in Section 3.

6.4.2 NWT notes the potential for cumulative effects with the HSF scheme and asserts that as a total of 17-18 territories will be 'lost' between both schemes, the mitigation proposed in the planning application is inadequate. This statement is confusing since it appears to recommend that the Old Wood Energy Park planning application provide mitigation for the neighbouring consented scheme according to industry

guidance[29]. This fails to take into account the fact that the EcIA for the HSF scheme concluded that there would be no likely significant effect on skylark and that this scheme was consented accordingly. While it is true that the EcIA for the Application Scheme considered that when both schemes are taken together, the Site-level residual effect on skylark may instead be felt at a Local level, as conveyed in Section 4 this only serves to communicate a difference of professional judgment and evolution of assessment method between consultants on the two schemes. It does not imply that the mitigation proposed is any less able to reduce the effects of the planning application scheme in isolation. Nor does it imply that any mitigation for potential impacts from the neighbouring consented scheme is in some way now necessary subsequent to RBC having approved it without requiring such mitigation. Whether or not the absence of mitigation for skylark on the HSF scheme was the conclusion of a robust and justified impact assessment corroborated by RBC, or due to an omission or evolution in assessment method, it is illogical for a later scheme to shoulder the 'omitted' or theoretical mitigation burden from the former. Cumulative assessment in this context is for the characterisation of impacts and cumulative significance, not the determination of mitigation proportionality. This should be done on the merits of the application in question, and in this case especially where the neighbouring scheme concluded no significant effect on skylark.

6.4.3 With reference to the Wysall Action Group comments, more is given in Section 3 concerning the suitability of the baseline surveys carried out and the suitability of the mitigation put forward.

[29] Fox, H. (2022). In Practice, 117, 47–51. September 2022. CIEEEM, London.

APPENDIX 1 – FIGURES TO SHOW HABITAT LAYOUT AND FIELD NUMBERING

Figure 1 – Old Wood North

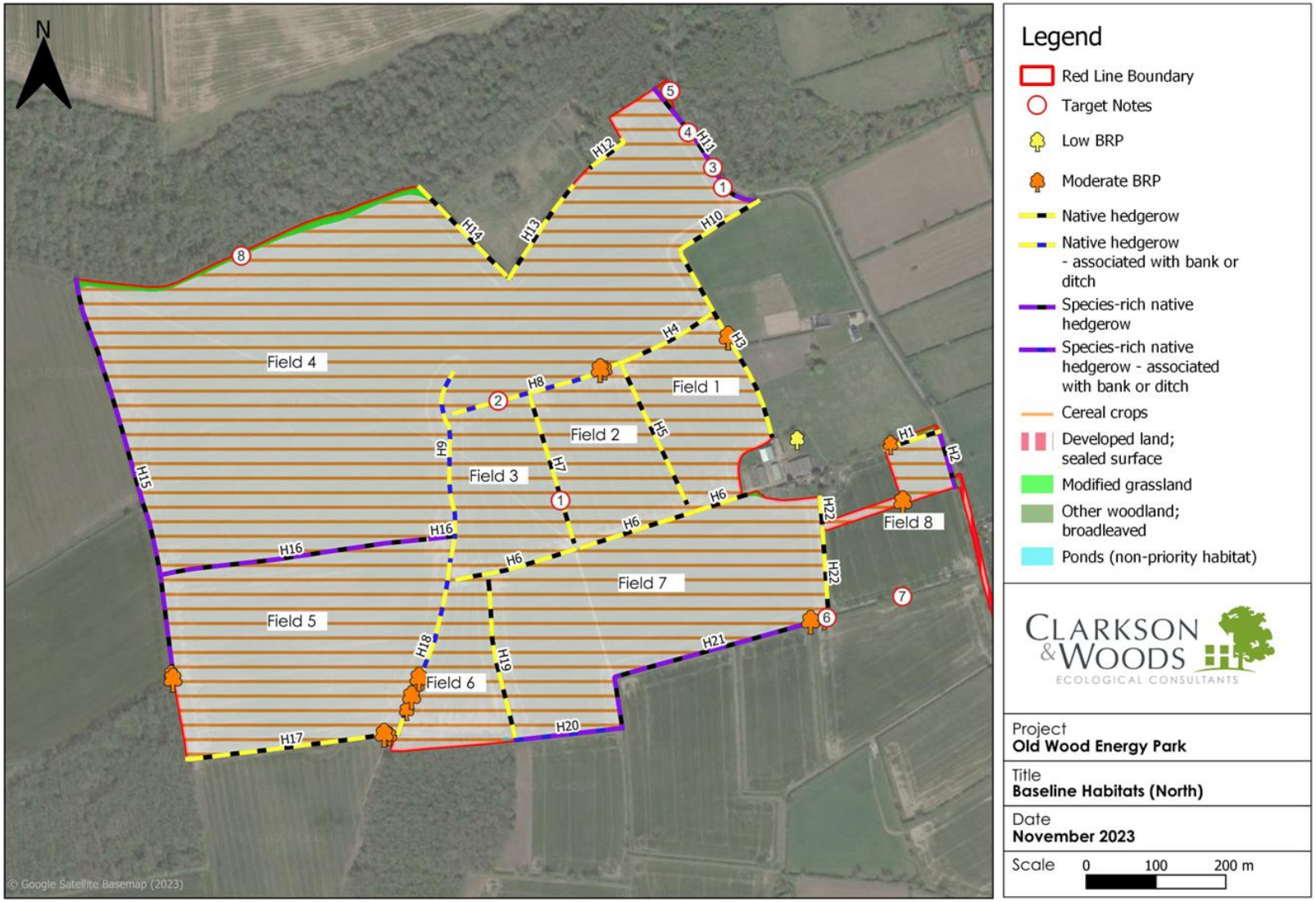
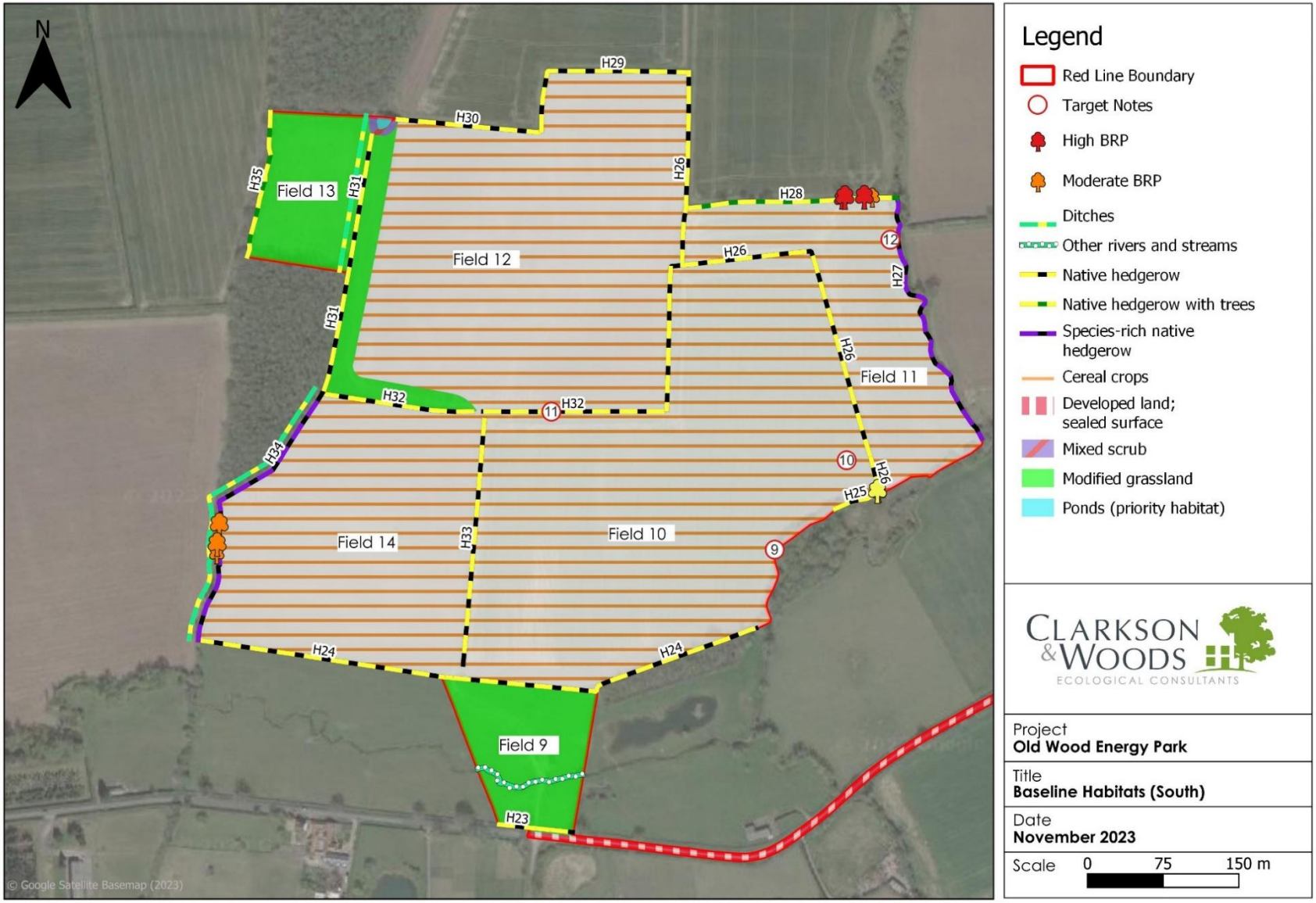


Figure 2 – Old Wood South



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