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Biodiversity Impact Calculation Report For the Proposed Track at Holmsted Farm

Client

Bill Hayward

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Report Summary

1. Libby Morris was commissioned by Bill Hayward to undertake a Biodiversity Impact Calculation of a proposal to create a permeable trackway on land within Holmsted Farm, Staplefield.
2. A survey to condition assess habitats on the pre-development site was undertaken on the 15th of September 2025. No loss or degradation of habitats from activities carried out before the onsite pre-development biodiversity value was calculated.
3. No irreplaceable habitats were recorded on site, nor were there any Very High Distinctiveness Habitats (VHDH) recorded on site.
4. The Statutory Biodiversity Metric Tool published in June 2024 has been used to assess the net change in biodiversity post-development.
5. The proposed development at this site will result in the loss of modified grassland. Modified grassland is to be enhanced as part of the proposed development.
6. The site at baseline comprises a total of 0.43 habitat units. The Biodiversity Metric Calculation tool showed that the proposed development of the site will result in the gain of 0.06 habitat units (+14.46%).
7. The current scheme meets the mandatory net gain value of 10% set out under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and achieves 10% net gain through goals detailed by Mid Sussex District Council.

Table of Contents

<i>Report Summary</i>	<i>2</i>
<i>About the Author.....</i>	<i>4</i>
<i>1. Introduction.....</i>	<i>4</i>
1.1 Purpose of the Report	4
1.2 Biodiversity Net Gain Legislation and Policy	4
1.3 Site Background.....	5
<i>2. Methodology.....</i>	<i>7</i>
2.1 Field Based Studies	7
2.2 Desk Study	7
<i>3. Results.....</i>	<i>8</i>
3.1 Existing Habitats Assessment.....	8
3.2 Proposed and Enhanced Habitats Assessment.....	10
3.3 Habitat Gains and Losses	10
<i>4. Conclusion</i>	<i>12</i>
<i>5. Biodiversity Net Gain Overview.....</i>	<i>12</i>
<i>APPENDIX 1 – Condition Assessments for Site</i>	<i>14</i>
<i>APPENDIX 2 – Site Photographs</i>	<i>14</i>
<i>APPENDIX 3 – Legislation and Best Practice</i>	<i>16</i>
<i>APPENDIX 4 – Conditions of use</i>	<i>26</i>

About the Author

This report has been prepared by Libby Morris BSc (Hons), an ecologist with eight years experience undertaking bird surveys as well as being a FISC level 4 accredited botanist and a MoRPH licenced river surveyor. She is experienced in habitat surveys and Preliminary Ecological Appraisals (PEAs) as well as specialising in statutory Biodiversity Net Gain and habitat assessments.

1. Introduction

1.1 Purpose of the Report

Libby Morris has been commissioned to undertake a Biodiversity Impact Calculation following updates to National Planning Policy Framework and the Environment Act 2021, wherein 10% biodiversity net gain must be shown with all new developments.

A Biodiversity Impact Assessment Calculation (BIC) is a quantified way of assessing the ecological impacts of development. It can be used to ensure that there is a measurable net gain for biodiversity. The BIC gives a score of biodiversity units before and after development. The score is a factor of habitat type, condition, distinctiveness, size (area), ease of creation and importance of the habitat within the Local Plan.

1.2 Biodiversity Net Gain Legislation and Policy

Biodiversity Net Gain was made statutory in February 2024, with the Small Sites metric being made mandatory in April 2024. The percentage of habitat uplift required varies between local planning authorities but the minimum required is 10% by Mid Sussex District Council.

Paragraph 170 of the NPPF reads:

“Planning policies and decisions should contribute to and enhance the natural and local environment by: [...] minimising impacts on and providing net gains for biodiversity”

Paragraph 174 of the NPPF reads:

“To protect and enhance biodiversity and geodiversity, plans should: [...] 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.”

Paragraph 175 of the NPPF reads:

“When determining planning applications, local planning authorities should apply the following principles: [...] opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”

Net gain is also referred to in the government’s 25 Year Environment Plan in which one of the key policies is to:

Embed *“an ‘environmental net gain’ principle for development, including housing and Infrastructure”*

The Mid Sussex District Council refers to biodiversity in the Mid Sussex District Plan 2014–2031:

“Biodiversity will be protected and enhanced by ensuring development:

- *Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure so there is a net gain in biodiversity including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments*
- *Protects existing biodiversity, so there is no net loss of biodiversity*
- *Unavoidable damage to biodiversity should be offset through enhancements and mitigation measures*
- *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience*
- *Promotes the restoration, management and expansion of priority habitats in the district*

- *Avoids damage to, protects and enhances the qualifying features of internationally designated sites of importance*
- *Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to the wider ecological networks"*

1.3 Site Background

The site is located within a rural location south of Staplehurst and North of Slough Green, West Sussex, grid reference TQ 28243 26344. The farm itself comprises hardstanding and arable fields and is surrounded on all aspects by arable farmland. The site boundary for the site is shown in Figure 1.



Figure 1. An aerial image showing the location of the site outlined in red and the application site shown in yellow. Images produced courtesy of Google maps (Map data ©2023 Google).

The application site concerns the creation of an unsealed track to the south of the farm, extending through an area of modified grassland leading to the east of the site to Holmsted Hill.

2. Methodology

2.1 Field Based Studies

A site walkover was undertaken on the 15th of September 2025 by Libby Morris, BSc (Hons) to assess the habitats and ecological features, where habitats were classified based on UKHAB version 2.01¹, and condition assessed using scores given using Condition Habitat Assessment survey sheets from the Defra Statutory Biodiversity Metric tool. Dominant plant species within the site were noted and, using both UKHAB and the National Vegetation Classification (NVC)² were classified into habitat types. If any uncertainty into the condition of habitats then a higher condition was applied. The survey was undertaken in accordance with CIEEM guidelines.

2.2 Desk Study

The condition and classification of habitat units present on the site was mapped in GIS software QGIS to establish areas and lengths of units recorded at the time of the survey. To predict habitat presence post construction, aerial imagery was overlaid by the proposed scheme layout in QGIS to assess loss and gains of habitats within the red line boundary. These habitats were labelled in accordance with UKHAB classification. Using the areas and lengths of habitats created from the maps data was input into the Statutory Biodiversity Metric Tool for both baseline and proposed plans to ascertain overall loss or gain of existing, enhanced and created habitats within the site.

A desk study was undertaken using online mapping tool Magic (www.magic.gov.uk) to identify any presence of Priority Habitat within the site boundary prior to the site walkover.

¹ UKHab. The UK Habitat Classification Version 2.01. 2023

² Rodwell, J. 1991. National Vegetation Classification, British Plant Communities Volumes 1-5. Cambridge University Press.

3. Results

3.1 Existing Habitats Assessment

The site sits entirely within the High Weald National Landscape (Figure 2.). For this reason, the Statutory Biodiversity Metric Tool has been used for this proposal rather than the Small Sites Metric Tool as per guidance from Natural England³.

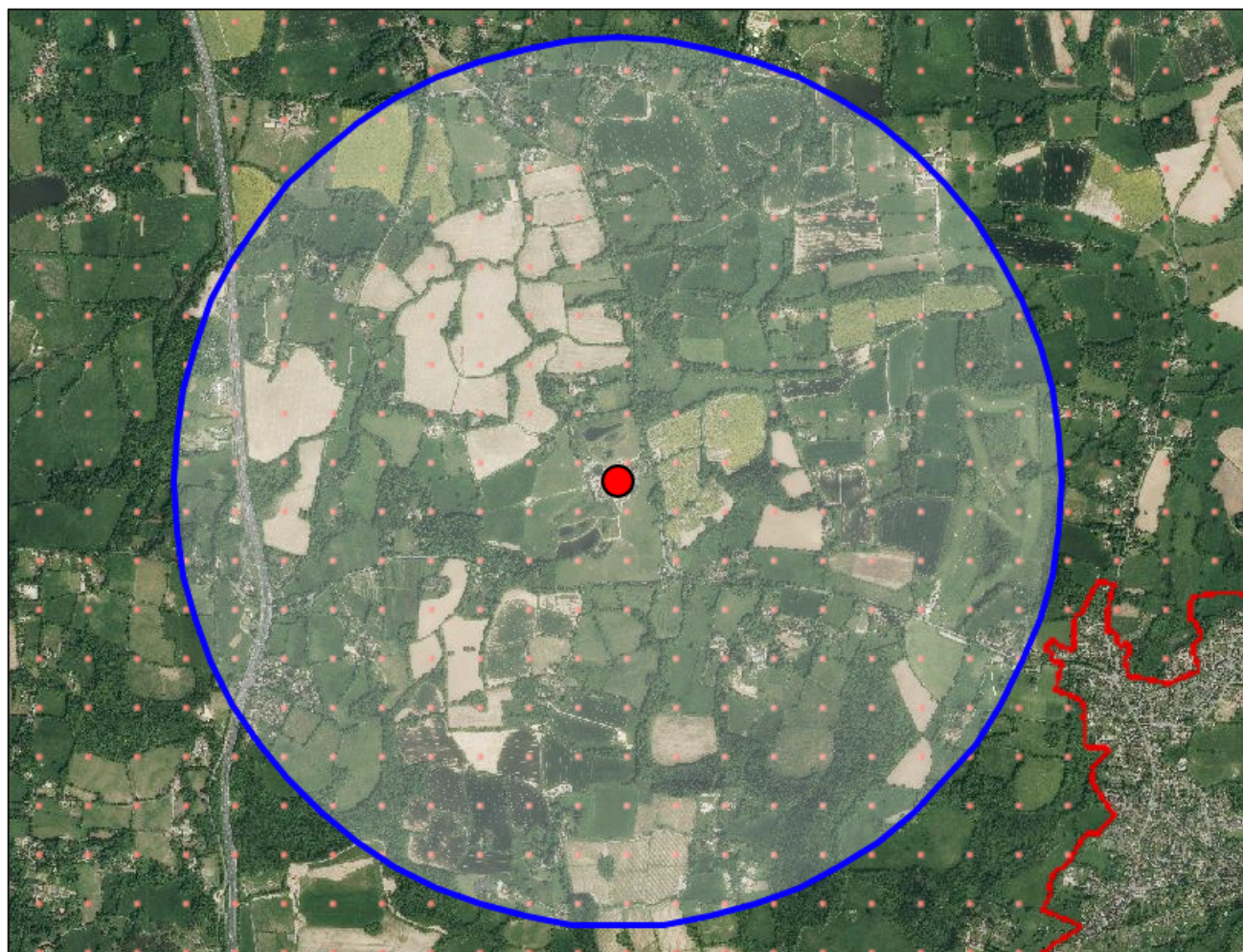


Figure 2. An aerial image showing locations of any designated sites within 2km of the application site. Images produced courtesy of Magic Maps, contains public sector information licensed under the Open Government Licence v3.0

Table 1 shows the existing habitat types and condition on the site at the time of the survey. The results of the condition assessments can be seen in Appendix 1. A map comprising the habitats recorded on the site is shown in Figure 3.

³ Natural England. 2023. Small Sites Metric User Guide. [Available online.](#)

Based on data collected on site, there are 0.43 habitat units and 0 hedgerow units on the site.

Table 1: Habitats on site at Land within Holmsted Farm

Habitat	Reference (Figure 4)	Condition	Area
Modified grassland	G1	Poor	0.037ha
Modified grassland	G2	Poor	0.012ha
Modified grassland	G3	Poor	0.008ha
Modified grassland	G4	Poor	0.156ha
Artificial unvegetated, unsealed surface	U1	N/A	0.127ha

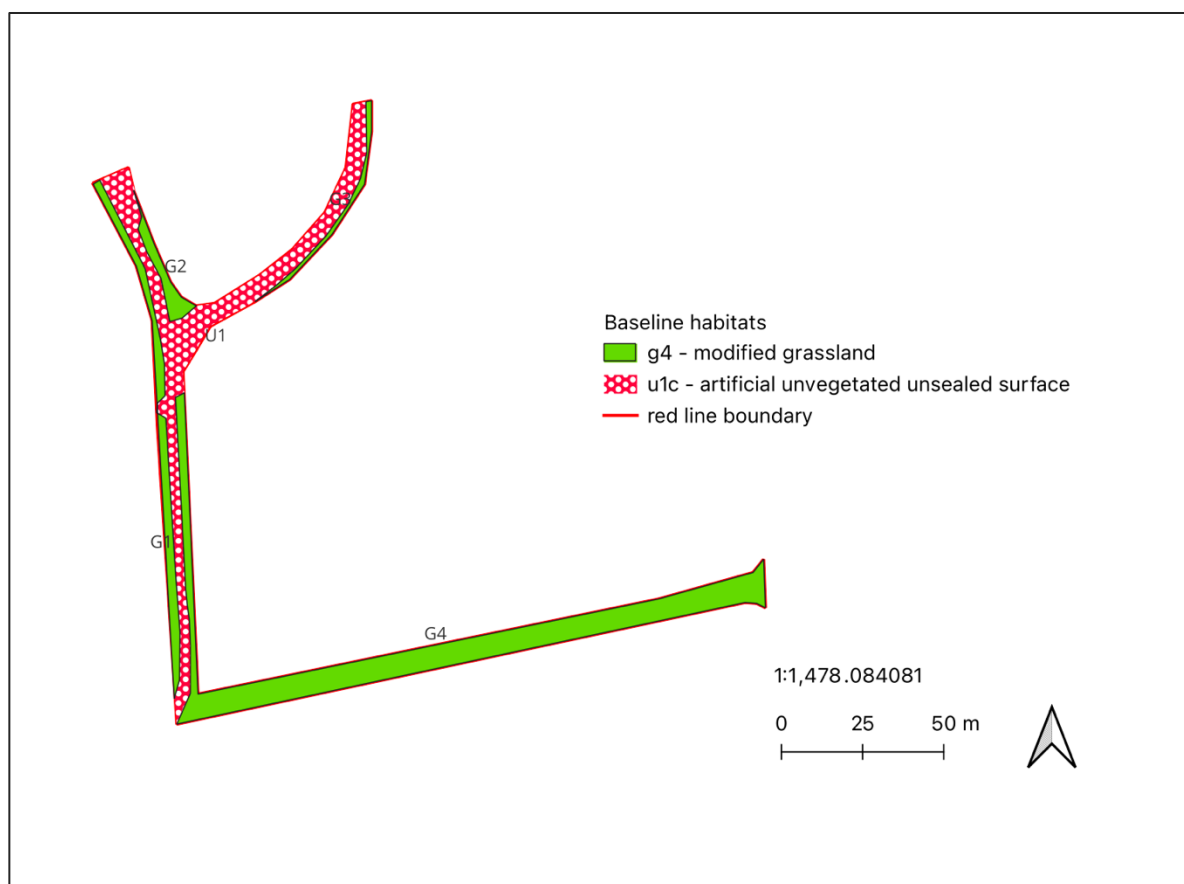


Figure 3: Map of baseline habitats according to UKHAB classification. Produced using QGIS.

3.2 Proposed and Enhanced Habitats Assessment

Table 2 shows the proposed created habitats and conditions for the site. Table 3 shows the proposed habitat enhancements for the site. Figure 4 shows a map of the proposed habitats.

Table 2: Created Habitats on site at land within Holmsted Farm

Habitat	Reference (Figure 5)	Condition	Area
Artificial unvegetated, unsealed surface	U2	N/A	0.07ha

Table 3: Proposed enhancements and condition on site at land within Holmsted Farm

Habitat	Reference (Figure 5)	Condition	Area
Modified grassland	G4	Poor – good condition	0.059ha

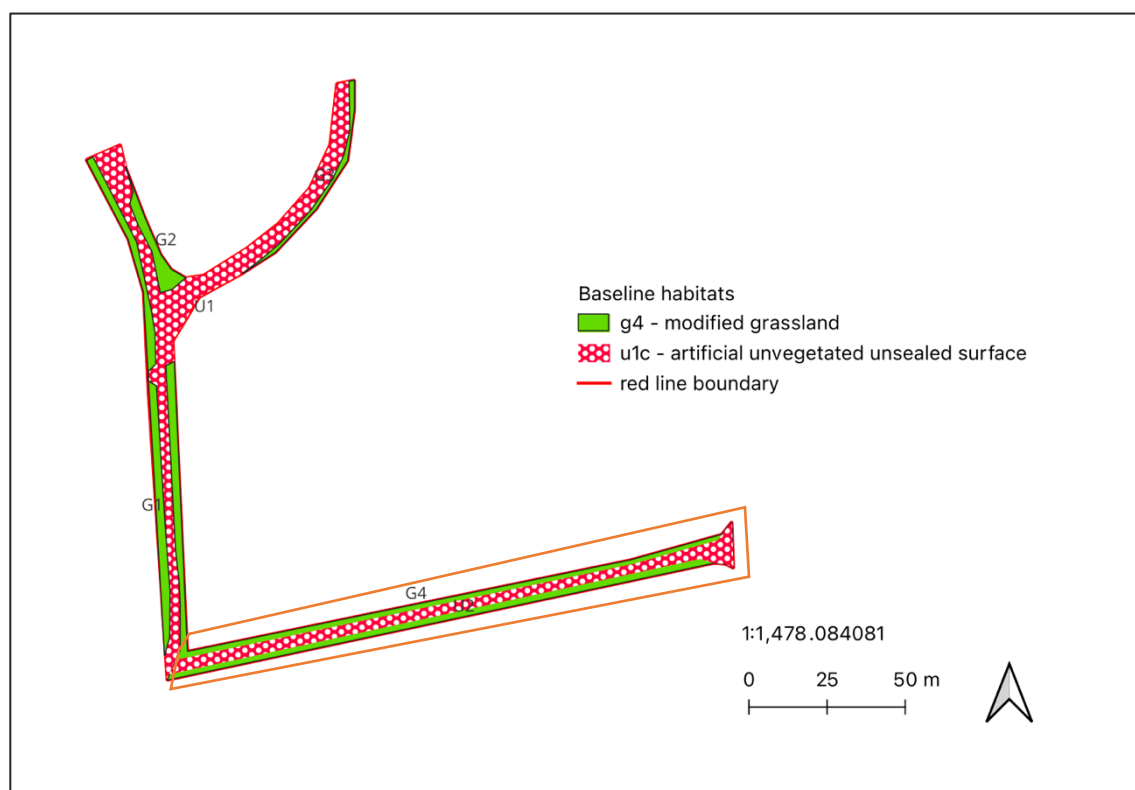


Figure 4: Map of proposed habitats according to UKHAB classification. Location of enhancements highlighted in orange. Produced using QGIS.

3.3 Habitat Gains and Losses

The proposed development scheme at this site will result in the loss of the following on site:

- 0.07ha modified grassland in poor condition

The proposed development scheme at this site will retain the following habitats on site:

- 0.057ha modified grassland

The following habitats will be created on site post-works:

- 0.07ha artificial unvegetated, unsealed surface

The following habitats will be enhanced on site post-works:

- 0.086ha modified grassland in poor condition enhanced to modified grassland in good condition

The headline results of the calculations are presented in Table 4. The Statutory Biodiversity Metric calculation tool has been supplied alongside this document as part of the application and provides full details of the calculation.

Table 4: Headline results from Statutory Biodiversity Metric Tool

FINAL RESULTS		
Total net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	<i>Habitat units</i>	0.06
	<i>Hedgerow units</i>	0.00
	<i>Watercourse units</i>	0.00
Total net % change (Including all on-site & off-site habitat retention, creation & enhancement)	<i>Habitat units</i>	14.46%
	<i>Hedgerow units</i>	0.00%
	<i>Watercourse units</i>	0.00%
Trading rules satisfied?	Yes ✓	

4. Conclusion

The Statutory Biodiversity Metric calculation expects that the proposed scheme will results in a net gain of **0.06 habitat units (+14.46%)**.

The current scheme satisfies the trading rules within the Statutory Biodiversity Metric and meets 10% net gain as per Mid Sussex District Council requirements.

5. Biodiversity Net Gain Overview

The data collected during this process has been done so using CIEEM guidelines and following the Statutory Net Gain User Guide. The habitats that are proposed after development are assumed to achieve the highest level of condition as appropriate and it is the client's responsibility to ensure that the measures and processes advised by a suitably qualified ecologist are followed to achieve this. A separate landscape and enhancement plan or habitat monitoring and methodology plan (HMMP) should be produced to ensure this condition is achieved.

The Biodiversity Impact Calculation uses the Statutory Biodiversity Metric calculation tool published by Natural England⁴. This is used to calculate 'habitat units' and 'hedgerow units' by multiplying the area (ha) or lengths (km), 'distinctiveness' (habitat type), 'condition' (quality), and strategic significance (location in relation to the authority's local strategy) of each habitat parcel.

The Statutory Biodiversity Metric calculation tool uses a separate calculator spreadsheet for 'polygon' habitats and linear features. It should be noted that because linear features often have higher ecological importance, linear habitats are assigned higher distinctiveness and must be offset with other linear features. For example, the hedgerow units generated for linear features are not equivalent or interchangeable with biodiversity calculations for areas of habitat.

⁴ Natural England (2023) *The Statutory Biodiversity Metric – Calculation Tool*. Available online at: <https://www.gov.uk/government/publications/statutory-biodiversity-metric-tools-and-guides>

The calculation provides a negative value to the biodiversity units where habitat is being directly lost to development. Where habitats are enhanced or created on-site, or off-site, the calculation gives a positive value but adds risk factors that account for uncertainty - difficulty in creating new habitats and time delays while they establish; habitats that are more difficult to restore or that will take a long time to reach a set target condition will score lower and therefore make a smaller positive contribution.

Where on-site gains do not outweigh on-site losses and a biodiversity 'net loss' is calculated, this becomes an 'offset requirement'. Offsets can be provided by further habitat creation or enhancement in-situ or elsewhere and are assessed using the same metric to balance the predicted gains against the losses to ensure no net loss will be achieved. It follows that a biodiversity net gain can still be achieved by providing higher biodiversity gains through the offset than the net loss resulting from the development.

Note that the metric does not allow for 'trading down'; one of the key principles in measuring biodiversity net losses or gains is that habitats of high ecological importance cannot be offset by the creation of larger areas of habitats with lower value. The Statutory Biodiversity Metric calculation tool includes a 'trading down correction' that deducts the number of biodiversity units that are not accounted for through the creation of equivalent high distinctive habitats than that lost. For example, the loss of a small area of lowland meadow priority habitat (high distinctiveness) will not be offset by a larger area of modified grassland (medium distinctiveness) and will only be offset by an equivalent area of habitat of the same distinctiveness or higher.

APPENDIX 1 – Condition Assessments for Site

Condition Sheet: GRASSLAND Habitat Type (low distinctiveness)													
UK Habitat Classification (UKHab) Habitat Type													
Grassland - Modified grassland													
Habitat Description													
ukhab – UK Habitat Classification													
On-site or off-site, site name and location	Holmsted Farm	Survey date and Surveyor name	Libby Morris, 15th September 2025										
		Survey reference (if relating to a wider survey)	Refer to Figure 4 in main report for parcel references.										
Limitations (if applicable)	Close mown grassland, grass species identified where possible but species per m2 has been counted.	Habitat parcel reference										Notes (such as justification)	
		G1	G2	G3	G4								
		Grid reference											
Condition Assessment Criteria													
		Criterion passed (Yes or No)											
A	There are 6-8 vascular plant species per m ² present, including at least 2 forbs (these may include those listed in Footnote 1). Note - this criterion is essential for achieving Moderate or Good condition. Where the vascular plant species present are characteristic of medium, high or very high distinctiveness grassland, or there are 9 or more of these characteristic species per m ² (excluding those listed in Footnote 1), please review the full UKHab description to assess whether the grassland should instead be classified as a higher distinctiveness grassland. Where a grassland is classed as medium, high, or very high distinctiveness, please use the relevant condition sheet.	N	N	N	N								
B	Sward height is varied (at least 20% of the sward is less than 7 cm and at least 20% is more than 7 cm) creating microclimates which provide opportunities for vertebrates and invertebrates to live and breed.	N	N	N	N								
C	Any scrub present accounts for less than 20% of the total grassland area. (Some scattered scrub such as bramble <i>Rubus fruticosus</i> agg. may be present). Note - patches of scrub with continuous (more than 90%) cover should be classified as the relevant scrub habitat type.	Y	Y	Y	Y								
D	Physical damage is evident in less than 5% of total grassland area. Examples of physical damage include excessive poaching, damage from machinery use or storage, erosion caused by high levels of access, or any other damaging management activities.	Y	Y	Y	Y								
E	Cover of bare ground is between 1% and 10%, including localised areas (for example, a concentration of rabbit warrens) ² .	Y	Y	Y	Y								
F	Cover of bracken <i>Pteridium aquilinum</i> is less than 20%.	Y	Y	Y	Y								
G	There is an absence of invasive non-native plant species ³ (as listed on Schedule 9 of WCA ⁴).	Y	Y	Y	Y								
Essential criterion achieved (Yes or No)		N	N	N	N								
Number of criteria passed		5	5	5	5								
Condition Assessment Result (out of 7 criteria)	Condition Assessment Score	Score Achieved x/✓											
Passes 6 or 7 criteria including passing essential criterion A	Good (3)												
Passes 4 or 5 criteria including passing essential criterion A	Moderate (2)												
Passes 3 or fewer criteria; OR Passes 4 - 6 criteria (excluding criterion A)	Poor (1)	5	5	5	5								
Suggested enhancement interventions to improve condition score													
Footnotes													

APPENDIX 2 – Site Photographs



Photograph 1. (left): Artificial track to south of site photographed from the western entrance



Photograph 2. (right): Artificial track to south of site photographed from the eastern entrance



Photograph 3. (left): Artificial track to south of site photographed from the western entrance



Photograph 4. (right): Area of bramble and vegetation bordering north of the track along the grassland boundary adjacent to the campsite

APPENDIX 3 – Legislation and Best Practice

- **The Conservation of Habitats and Species Regulations 2017**

These regulations, referred hereafter as “the Habitats Regulations”, represent the primary method by which Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the “Habitats Directive”) is transposed for England and Wales and their territorial seas. The Habitats Directive, in conjunction with the Birds Directive (Council Directive 2009/147/EEC) forms the basis for implementation of Europe’s nature conservation policy through both habitat and species level protection. The Habitats Directive requires the designation of strictly protected European sites known as Special Areas of Conservation (SACs). Together with the Special Protection Areas (SPAs) established by the Birds Directive, these collectively form the Natura 2000 Network of protected sites. The Habitats Directive also requires the strict protection of animals and plants of Community Interest listed under Annex IV. Habitat types requiring strict protection as SACs are listed under Annex I. The conservation of animals and plants listed under Annex II requires the designation of SACs. The Habitats Regulations require that public bodies must exercise their nature conservation responsibilities to ensure compliance with the Habitats Directive. These regulations also require the conservation of natural habitats and habitats of species through the selection, designation and notification of marine and terrestrial ‘European Sites’ to be afforded protection under the Habitats Directive. The habitats and species of European Importance are listed under Annexes I and II of the Habitats Directive. The regulations also contain provision for the appropriate management of these European Sites including the control of damaging operations, special nature conservation orders and restoration orders, for example. The Habitats Regulations afford strict protection to European Protected Species of animals under Schedule 2 and plants under Schedule 5. Offences (subject to certain exceptions) include the deliberate capture, killing, disturbance or trade in these animals. Similarly plants listed under Schedule 5 are protected (subject to exceptions) from picking, collection, cutting, destruction or trade.

- **The Wildlife and Countryside Act 1981 (as amended)**

The Wildlife and Countryside Act 1981 (as amended) (WaCA) is still a leading mechanism for the legislative protection of wildlife and national parks across the United Kingdom. The WaCA

draws on elements of pre-existing legislation and supports the Habitats Regulations in implementing the Bern Convention (1979) and Directive 2009/147/EC on the conservation of wild birds. Schedules within the WaCA provide a list of protected species and habitats, in addition to prohibited actions. It also contains measures for controlling invasive non-native species and amendments to a number of laws. Most notably within the scope of this report are Schedule 9 of the WaCA which lists non-native species that are already established in the wild and continue to pose a conservation threat to native biodiversity and habitats and stipulates that further releases should be regulated. Schedule 9 also includes some native species (for example, Barn Owl (*Tyto alba*)) in order to provide a level of control to ensure that releases, in particular re-introduction programmes, are carried out in an appropriate manner and biodiversity is properly safeguarded; and Schedule 14, which prohibits the introduction into the wild of any animal of a kind which is not ordinarily resident in, and is not a regular visitor to, Great Britain in a wild state, or any species of animal or plant listed in Schedule 9 of the WaCA.

- **The Natural Environment and Rural Communities (NERC) Act 2006**

The Natural Environment and Rural Communities Act imposes a Biodiversity Duty (S.40) on all public bodies to conserve biodiversity at both species and habitat levels (S40);

“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”

Section 41 of the Act requires the publication of a list of

“living organisms and types of habitat which in the Secretary of State’s opinion are of principal importance for the purpose of conserving biodiversity.”

The list generated under Section 41 of the Act contains a number of types of habitats and species of animal and plant that have the potential to be affected by development projects of a range of sizes and impacts including lowland deciduous woodland, floodplains and calcareous grassland habitats.

The Act also establishes Natural England as the independent body to:

“ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development”.

943 species and 56 habitats of principal importance are included on the S41 list as guidance for public bodies on decisions that affect biodiversity.

- **The Hedgerow Regulations 1997**

On 1 June 1997, the Hedgerow Regulations came into force under section 97 of the Environment Act 1995 to address the dramatic decline in UK hedgerows. The regulations protect important hedgerows by limiting removal through a system of notification via local planning authorities. The regulations are aimed at countryside hedgerows in England and Wales;

Section 3.6: *"on or adjoining, common land, village greens, Site of Special Scientific Interest (which include National Nature Reserves, Special Protection Areas under the Birds Directive and Special Areas of Conservation under the Habitats Directive), Local Nature Reserves, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys"*

Written permission is required from the local planning authority before the removal of any hedgerow over 20 metres and more than 30 years old. Hedgerows less than 20 metres long may also be considered if they form part of a continuous network of hedges.

The LPA will then either issue a Hedgerow Retention or Hedgerow Removal Notice within 42 days depending on whether they define the hedgerow as important or not based on the following criteria:

- "They have been in existence 30 years or more; and"
- "They satisfy at least one of the criteria set out in Part II of Schedule 1 of the Regulations."

Exemptions to the Regulations fall into three categories:

- "small scale works;"
- "works approved under other procedures which ensure careful assessment and consideration of the impact on the local environment; and"
- "works authorised under other legislation which justify the removal of a hedgerow without first establishing its importance."

It is an offence to remove a hedgerow subject to a retention notice, or to remove a hedgerow protected under the Hedgerow Regulations without first obtaining the required removal notice.

Updated regulations as part of the Hedgerow Regulations due in 2024 regulations will include a two metre 'buffer strip' from the centre of hedgerows with no cultivation or application of

pesticides or fertilisers, and a hedge cutting ban between 1 March and 31 August to protect nesting birds. These updates are also to include over 90,000km of hedgerows being managed through 16,000 agreements in the government's Countryside Stewardship and Sustainable Farming Incentive schemes, and more than 13,000km of hedgerows created or restored using Countryside Stewardship grants.

- **The UK Post-2010 Biodiversity Framework**

The UK Post-2010 Biodiversity Framework was published on 17 July 2012. It was produced by JNCC and Defra, on behalf of the Four Countries' Biodiversity Group (4CBG), through which the environment departments of all four governments in the UK work together. It covers the period from 2011 to 2020, and was developed in response to two main drivers: the Convention on Biological Diversity's (CBD's) Strategic Plan for Biodiversity 2011-2020 and its five strategic goals and 20 'Aichi Targets', published in October 2010; and the EU Biodiversity Strategy (EUBS), released in May 2011. The framework shows how the work of the four UK countries joins up with work at a UK level to achieve the 'Aichi Targets' and the aims of the EU Biodiversity Strategy. It identifies the activities required to complement the country biodiversity strategies, and where work in the country strategies contributes to international obligations. In total, 23 areas of work were identified where all the countries agreed that they wanted to contribute to, and benefit from, a continued UK focus.

The development of the framework reflects a revised direction for nature conservation, towards an approach which aims to consider the management of the environment as a whole, and to acknowledge and take into account the value of nature in decision-making. The framework sets out the common purpose and shared priorities of the UK and the four countries, and, as such, is a hugely important document, which is to be owned, governed, and implemented by the four countries.

- **National Planning Policy Framework (NPPF)**

This framework acts as guidance for planning authorities (LPAs) in England to form Local Plan policies in favour of sustainable development as part of the government's reforms to increase the accessibility of the planning system and promote long term sustainable growth.

The framework states that “planning policies and decisions should contribute to and enhance the local environment” (paragraph 170).

Chapter 15 of the framework focusses on habitats and biodiversity. Specifically, paragraph 175 states:

“...when determining planning applications, local planning authorities should apply the following principles:

- 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"*
- 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 Scientific Interest (SSSI);*
- development proposals whose primary objective is to conserve or enhance biodiversity should be supported;*
- opportunities to incorporate biodiversity improvements in and around developments should be encouraged;*
- 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"*

The NPPF also states section 185 in regard to planning applications:

"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.”

- **Circular 06/2005: Biodiversity and Geological Conservation**

The Circular 06/2005 complements the NPPF by advising on how the law relates to planning and nature conservation in England, with particular reference to designated sites and protected species;

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision” (Paragraph 99).

However;

“developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.”

Part IV also reminds LPAs and developers that licences and mitigation measures may be required in addition to planning permissions if protected species are to be affected by the development

“The breach of protected species legislation can often give rise to a criminal offence” (Paragraph 101).

- **Bats**

All British bats are “European Protected Species” (EPS) and listed on Annex II and Annex IV of the EC Habitats Directive. The Directive is transposed into UK law through the Conservation of Habitats and Species Regulations 2017. The following actions affecting bats are prohibited under the legislation:

- deliberate capture, injury or killing of a bat;
- deliberate disturbance of a bat and in particular disturbance which is likely to impair their ability:
 - to survive, to breed or reproduce, or to rear or nurture their young, or

- in the case of animals of a hibernating or migratory species, to hibernate or migrate;
- or to affect significantly the local distribution or abundance of the species to which they belong.

- damage or destruction of a breeding site or resting place;
- possessing, controlling transporting, selling or exchanging, or offering for sale or exchange any bat or any part of a bat or anything derived from one.
-

Bats are also afforded protection from intentional or reckless 'disturbance' by the Wildlife and Countryside Act 1981 (as amended). The deliberate or reckless obstruction of access to a structure or place used by bats for shelter and protection is also an offence under the Act.

- **Birds**

All wild birds in the UK are afforded protection under the Wildlife and Countryside Act 1981 (as amended). This protection includes killing, injuring or taking wild birds as well as taking, damaging or destroying bird nests in use or being built, and taking or destroying eggs. Birds listed under Schedule 1 of the Act are afforded additional protection from disturbance during nesting and offences relating to these birds are subject to special penalties. The nest sites of birds listed under Schedule ZA1 of the act are afforded strict, year-round protection even when the nests are not in active use.

- **Reptiles**

All species of native reptiles are protected against killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). The Sand Lizard (*Lacerta agilis*) and Smooth Snake (*Coronella austriaca*) are further protected under The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 against capture or disturbance and the places they use for breeding, resting, shelter and protection are protected from being damaged or destroyed.

- **Great Crested Newts**

The Great Crested Newt and its habitat are protected under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This

legislation makes it an offence to deliberately kill, injure or capture a Great Crested Newt; deliberately disturb a Great Crested Newt; damage, destroy or obstruct access to a structure used for shelter or protection by a Great Crested Newt; or possess or transport a Great Crested Newt. Great Crested Newts are also afforded protection from intentional or reckless 'disturbance' by the Wildlife and Countryside Act 1981 (as amended). The deliberate or reckless obstruction of access to a structure or place used by great crested newts for shelter and protection is also an offence under the Act. This applies to both aquatic and terrestrial habitat

- **Badgers**

Badgers and their setts are protected under the Protection of Badgers Act 1992 which makes it an offence to kill, injure or possess a badger; interfere with, damage or destroy a Badger sett including obstructing access to a badger sett; cruelly treat or harm a Badger; or disturb a Badger in a sett.

- **Otters**

Otters (*Lutra lutra*) and their resting places are protected under the Wildlife and Countryside Act 1981 (as amended) and the The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This legislation makes it an offence to deliberately kill, injure or capture an Otter; deliberately disturb an Otter in their breeding or resting places; damage, destroy or obstruct access to their resting or breeding places.

- **Water Voles**

Water Voles (*Arvicola amphibius*) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing or taking by certain prohibited methods. Their breeding and resting places are fully protected from damage, destruction or obstruction; it is also an offence to disturb them in these places.

- **Common Dormouse**

Common dormice are protected under both The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Wildlife and Countryside Act 1981 (as amended). Dormice and their

breeding sites and resting places are fully protected. Without a licence it is an offence for anyone to deliberately disturb, capture, injure or kill them. It is also an offence to damage or destroy their breeding or resting places, to disturb or obstruct access to any place used by them for shelter. It is also an offence to possess or sell a wild Dormouse.

- **White-clawed crayfish**

White-clawed Crayfish (*Austropotamobius pallipes*) are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) protecting them from harm, disturbance and capture without an appropriate licence. It is illegal to buy or sell White-clawed Crayfish whether alive or dead.

- **Invertebrates**

Three UK invertebrate species are protected under The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019; the Large Blue butterfly (*Phengaris arion*), Fisher's Estuarine moth (*Gortyna borelii*) and Little Ramshorn Whirlpool snail (*Anisus vorticulus*). It is an offence for anyone to deliberately disturb, capture, injure or kill them. It is also an offence to damage or destroy their breeding or resting places, to disturb or obstruct access to any place used by them for shelter. It is also an offence to possess or sell these species. Approximately 400 further invertebrate species are listed as 'Species of Principle Importance under Section 41 of the NERC Act.

- **Invasive Plant Species**

It is prohibited to plant or otherwise cause to grow in the wild any species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). The Environmental Protection Act 1990 also classifies certain invasive plants as controlled waste which must be disposed of safely at an appropriately licensed landfill site, in particular Japanese Knotweed (*Reynoutria japonica*). Under section 57 of the Anti-social Behaviour, Crime and Policing Act 2014, if an individual or an organisation fails to control an invasive plant species which is having a detrimental effect on the quality of life of those in the locality then a notice can be issued after a mandatory written warning has been served. Breach of this notice, without reasonable excuse, would be a criminal offence, subject to fixed penalty notice (a penalty of £100) or prosecution. On

summary conviction an individual could be liable to a level 4 fine and an organisation could be liable to a fine not exceeding £20,000.

- **Definitions of Statutory and Non-Statutory Sites**

Name	Statutory/Non-statutory	Definition
SAC – Special Area of Conservation	Statutory	Strictly protected sites designated under the EC Habitats Directive, that will make a significant contribution to conserving habitats or species identified in Annexe I and II of the Directive (as amended).
SPA – Special Protection Area	Statutory	Strictly protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds (as listed on Annex I of the Directive).
SSSI – Site of Special Scientific Interest	Statutory	SSSIs provide statutory protection for the best examples of the UK's flora, fauna, or geological or physiographical features.
NNR – National Nature Reserve	Statutory	NNRs contain examples of some of the most important natural and semi-natural terrestrial and coastal ecosystems in Great Britain. They are managed to conserve their habitats or to provide opportunities for scientific study.
LNR – Local Nature Reserve	Statutory	LNRs are declared and managed for nature conservation, and provide opportunities for research and education, or simply enjoying and having contact with nature.
Ramsar – Ramsar Site	Statutory	Ramsar sites are wetlands of international importance designated under the Ramsar Convention.
LWS – Local Wildlife Site	Non-statutory	Areas of land with significant wildlife value for the local area.
SINC – Site of Importance for Nature Conservation	Non-statutory	Areas of land with significant wildlife value for the county
CWS – County Wildlife Site	Non-statutory	Areas of land with significant wildlife value for the county

APPENDIX 4 – Conditions of use

This report has been prepared by Libby Morris, with all due diligence and care within the terms of the Contract with the client. This report only becomes the property of the client once payment for it has been received in full. The author disclaims any responsibility to the client and others in respect of any matters outside the scope of the above.

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