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Cc: David Easton <David.Easton@arun.gov.uk>
Subject: Application AL/11/24/OUT

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Dear Mr Easton

Please find attached the response from the Parish Council in relation to the above application.

There are 5 documents which do need to be read in conjunction with each other, and I would be grateful if you could ensure that these are posted onto the ADC planning portal.

Regards

Marie Singleton (Certificate in Local Council Administration – CiLCA)
Parish Clerk/RFO



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[REDACTED]

Mr D Easton
Planning Officer
Arun District Council
Civic Centre
Littlehampton
West Sussex BN17 5LF

28 March 2024

Dear Mr Easton

**ALDINGBOURNE PARISH COUNCIL SUBMISSION TO ARUN DISTRICT COUNCIL ON AL/11/24/OUT,
'LAND EAST OF WESTERGATE'**

Application Details: Hybrid application consisting of 1) Outline permission for all matters reserved (except access) for up to 400 No dwellings and associated works and 2) Full planning permission for alterations to site access off Westergate Street and through Pine Close and east-west link road including a bridge over the Lidsey Rife. This application also lies within the parish of Barnham, falls within Strategic Site SD5, CIL Zone 1 (Zero Rated), affects the setting of listed buildings, affects the character and appearance of the Eastergate Church Lane Conservation Area, affects public rights of way. This application is the subject of an Environmental Statement.

Please note – this submission should be read in conjunction with the Council's separate detailed submission on ecological issues, titled 'Aldingbourne Parish Council Ecological Impact Report', and with the three third party ecologist reports that accompany it.

At the meeting of the Aldingbourne Parish Council ('APC') Planning Committee on 12 March 2024, the Committee resolved to **object** to the above application.

In addition, we make the following observations on the application documentation:

- (i) Although the application was validated on the Arun Planning portal on 12 February 2024, the yellow notices alerting residents were not placed around the site until 1 March 2024, which has left the community with a limited opportunity to assess and submit comments on a highly complex

application. The Parish Council has requested in separate correspondence to Arun District Council ('ADC') an extension of time for both residents and itself to make responses.

(ii) The Council also wishes to be satisfied in relation to the applicant's Biodiversity application documents that the ADC Officers consider the responses provided by the applicant are valid. The yes/no boxes relating to the documents do not appear to have been correctly completed.

CONTENTS OF SUBMISSION

Parish Council objections:

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 - 1.1 The A29
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5. Connectivity/access
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7. Wider significance of the application

PARISH COUNCIL OBJECTIONS TO APPLICATION

Although the site is allocated as part of the Barnham, Eastergate and Westergate Strategic Allocation ('BEWSA') in the Arun Local Plan 2011 – 2031, the application is nevertheless required to demonstrate that it meets the specific requirements of the 'allocating policy' and other relevant policies, and that there are no material considerations that would weigh against consent being granted.

We contend in our submission below that the application does **not** meet the requirements of the allocating policy, and that there **are** material considerations that weigh against consent, as follows.

As such we consider the application premature at this stage.

1 Transport and Highways

1.1 The A29

Policy H SP2c of the Arun Local Plan 2011-2031 ('ALP') sets out the infrastructure requirements for the BEWSA, of which those relating to transport are the most extensive. The most important of these is the A29 realignment:

"A new route through the allocation which provides all necessary linkages and routing between the A259 (Bognor Regis relief road) to the south and the A27 to the north and includes a bridge over the railway to the east of the current Woodgate crossing".

All elements of the BEWSA, including the site identified by Cala, are predicated in the Plan on this realignment of the A29. However, at the present time there is no delivery time for completion of the

realigned A29, and we are already witnessing delays in the building of the Northern Section funded by West Sussex Highways. The funding for the Southern Section appears to be less certain which makes the timescale for delivery unclear.

Arun have previously indicated that compliance with the Framework Masterplan for the site endorsed by the Planning Committee in November 2020 will be a material consideration in determining the individual planning applications in the BEWSA scheme. However, the Framework contains very little in relation to the delivery of transport and highways infrastructure and in fact is silent on the means by which the A29 realignment will be delivered.

In September 2023, the Parish Council commissioned a report from Steve Tilbury Consulting entitled '*Implementation and Infrastructure - Barnham, Eastergate and Westergate Strategic Allocation*', provided to ADC, which identified that:

'The Framework Masterplan for the Barnham Eastergate and Westergate Strategic Allocation (BEWSA) does not establish a mechanism or a timetable to deliver the realignment of the existing A29 through Westergate and Woodgate' [Executive Summary, first point].

In advance therefore of access to a new A29, the proposed development makes provision for access instead to the existing A29 highway, via a new east/west link road with access/egress at Pine Close. The Parish Council considers that this proposed access via Pine Close will be unsuitable for access and egress of large volumes of traffic onto the A29, which is frequently obstructed due to weight of traffic and is already at capacity.

In 2019 WSCC Highways' consultation document on the proposal to realign the A29 noted:

"The existing A29 is already unable to cope with the current volume at peak times which means people are experiencing significant delays and congestion, especially at the Woodgate level crossing and the War Memorial junction. We expect the number of cars on the road to rise in the future, both because of the population rise and the impact of new housing and business development allocated in the Arun Local Plan adopted in 2018."

Since that date, speculative development caused by ADC's shortfall in Housing Land Supply has added many hundreds of new houses to the Parish (714 alone consented since the Aldingbourne Neighbourhood Plan was made in June 2021) that are contributing significant additional traffic to the road.

In addition, this winter the A29 has been subject to complete closure due to flooding on multiple occasions both between the Fontwell roundabout and Eastergate War Memorial to the north, and from Sack Lane to Bognor Regis to the south. These closures have significantly exacerbated the traffic problems on the section of the A29 adjacent to the application site, and there is no reason to think that such flooding incidents will lessen in future years – indeed myriad recent research demonstrates that the UK will experience increased instances of extreme rainfall in future (see for example new research from the Met Office published on 7th March 2023, which revealed that "Extreme rainfall events could be four times as frequent by 2080 compared to 1980s" - <https://www.metoffice.gov.uk/about-us/press-office/news/weather-and-climate/2023/new-research-shows-increasing-frequency-of-extreme-rainfall-events>).

In the absence of a framework setting out the infrastructure timetable/delivery, for the reasons outlined above the Parish Council considers this application is premature. The Council contends that this development should not be considered until the completion of both the northern and southern sections of the realigned A29.

If ADC are minded to grant the application, the Parish Council requires a condition precedent to the commencement of any development on the site that the A29 works are fully completed north to south, end-to-end.

1.2 The East/West link route/Pine Close

The application seeks '*Full planning permission for alterations to site access off Westergate Street and through Pine Close and east-west link road including a bridge over the Lidsey Rife*'. The east-west link road is intended to connect the existing A29/Westergate Street to the new A29, when constructed, to the east of the Cala site.

On the instructions of West Sussex County Council ('WSCC') as highway authority, no motorised traffic except public transport will be able to cross the bridge over the Rife on the link road (i.e. from the CC Projects site to the east, 'Parcel SC1') until the whole of the A29 realignment is complete and north/south traffic can therefore bypass Westergate and the Woodgate rail crossing. However, as we have already noted, there is no timetable for completing the southernmost section of the realignment, which could be some years after the east/west link road is finished. Until that point, all traffic for the Cala development will enter and exit it via Pine Close.

The Parish Council considers that Pine Close is completely unsuited to be the access point for the development, for the following reasons:

- 1.2.1 The application states that the increase in traffic on the existing A29 from the development will not be so great that the effect on the network would be 'severe', and that the most significant impact will be to increase traffic to the north of the site by 21% until the east/west link can extend beyond the bridge over the Rife. This statement ignores the fact that existing traffic impacts, caused primarily by queues to the Woodgate level crossing to the south, are already severe and at saturation point in rush hour: traffic queues currently extend north of Pine Close on a daily basis in the afternoons, and can reach the War Memorial roundabout to the north. Given that Pine Close is blocked daily by standing traffic, additional vehicles generated by the development will not be able to enter or exit the new east/west link road.

In addition, it is a significant concern that the increased queues building on Westergate Street due to additional traffic from BN/195/22/PL (551 dwellings), BN/11/22/OUT (1,250 dwellings), AL/178/22/OUT (89 dwellings), which may all be under construction at the same time, along with traffic emerging from and entering Pine Close, will further delay emergency vehicles from being able to enter and exit minor roads off Westergate Street. The increased standing traffic will also impede them getting to the front of the queue at the Woodgate Crossing because of the addition of the proposed signal-control junction at Pine Close/Westergate Street/Meadow Way, which is just north of a blind-going North bend where using the wrong side of the road to advance along the queue may cause collision with a hidden oncoming vehicle.

- 1.2.2 The Woodgate level crossing is currently estimated to be closed for around 92 regular 'timetabled' movements each way per day, Monday to Saturday, along with additional closures for freight trains, relocating trains and touristic services. The actual closure duration each hour of the day will need to be provided by Network Rail, but we calculate that from June onwards when a new timetable takes effect, the crossing will be closed for at least 30 – 35 minutes in every hour the service operates. Traffic queues will therefore increase even further and block entry from and to Pine Close even more frequently.

- 1.2.3 Pine Close itself is intrinsically unsuitable to be the access/egress point for such a high volume of traffic as the development will produce, including public transport vehicles. A quiet four house cul-de-sac will be turned into a main road carrying significant amounts of vehicular traffic including HGVs and buses running extremely close to residents' homes – the application acknowledges a dramatic increase in traffic flows adjacent to residents. Children resident in the Close will no longer be able to play outside or on the local green space (identified in the Aldingbourne Neighbourhood Plan) because of the danger to life this 'dramatic' increase in traffic will cause.

The application intends to prevent residents from parking in the road outside their houses, and this will also apply to their mobility-impaired visitors who have Blue Badges enabling them to park on the double yellow lines, to other visitors and delivery vehicles.

The conclusion of the Noise Impact Assessment provided by the applicant indicates that there will be no adverse impact from development. It assesses that standard methods can be used to ensure that properties close to the railway line will not suffer any excessive noise level. Pine Close is over half a kilometre from the railway and is an extremely quiet cul-de-sac with very few traffic movements - the noise impact on residents of the Close from the development and its traffic will therefore be considerable.

- 1.2.4 The application severs public footpath 297 which provides an extremely safe route for children and other residents to walk to and from the two schools in the Parish and the local GP practice, The Croft, without walking alongside the A29. The severance of this key footpath will endanger the safety of young and vulnerable members of the community from the outset of construction, because it will provide the vehicular access to the site during this phase and be used primarily by HGVs. The Council opposes the severance of this footpath and the proposed realignment, diversion, or extinction of any other public footpaths over this site and supports the objection by WSCC Highways in this respect in their submission.

1.3 Proposed road bridge over the Lidsey Rife

The Council is concerned that there is no timescale within the Framework Masterplan for the bridge to be constructed. If Arun is minded to grant the application, we require a condition precedent that the bridge will not be opened to traffic until the whole length of the A29 north-south end-to-end is complete.

In addition, the application plans for the east/west link road, and particularly the road bridge over the Rife, appear to indicate that contaminated water from the road surface will be discharged into the Rife, which as a chalk stream is recognised as a Priority Habitat in the UK Biodiversity Action Plan.

2 Biodiversity, landscape, and recreation

A separate, full report detailing the Parish Council's significant concerns about the biodiversity loss if the application were granted is submitted, entitled 'Aldingbourne Parish Council Ecological Impact Report', together with three reports from ecologists.

2.1 Aldingbourne Neighbourhood Plan Biodiversity Corridor

The Council considers significant weight should be accorded to the fact that the application directly contravenes policy EH2 of its Neighbourhood Plan, made in June 2021:

Green Infrastructure and Ecosystems services

New development within, or immediately adjacent to, the Biodiversity Corridors will need to clearly demonstrate that development proposals will not give rise to any significant harm to the integrity or function of the Biodiversity Corridor.

The Biodiversity Corridor adopted in the Plan runs for the whole length of the application site and covers all the hedgerows, the Lidsey Rife, certain trees and the whole of the wet woodland. The Council contends that the application will give rise to significant harm to both the integrity and function of the Biodiversity Corridor and gives its reasons in its detailed separate Ecological Impact Report.

The Government's Planning Policy Framework (NPPF) as revised in December 2023 states at paragraph 14:

14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68

The Aldingbourne Neighbourhood Plan was made in June 2021, and allocated a site for housing, currently under construction, at 'Land North of Lees Yard' (policy H1), therefore conforms to conditions (a) and (b).

The Council therefore contends that policy EH2 of its Neighbourhood Plan must not be contravened by the application.

2.2 Designation of entire site as a Country Park

The Parish Council argued in its 2018 submission in response to the previous application for the site AL/107/16/RES that the application site should be designated a Country Park:

"The Parish Council is clear that the application is premature because the application prevents the achievement of the best biodiversity, landscape, and recreational outcomes for the Strategic Development at Barnham, Eastergate and Westergate (BEW). Furthermore, it disregards the designation of this area as a biodiversity corridor [in the Aldingbourne Neighbourhood Plan].

"The Parish Council considers that in the context of the overall masterplan for the strategic allocation, a better solution could be found which adequately takes account of biodiversity, landscape character (including the historic landscape character) and the need for access to high quality open space. This can be achieved as part of the larger development through designation of the site covered by this application for the purposes of a Country Park, as proposed in the original Visioning Document [prepared for ADC] for the BEW site, not a small remnant, which Cala Homes proposes through this application. [Arun District] Council will be aware that Aldingbourne Parish Council had regard to that

Visioning Document in preparation of the Aldingbourne Neighbourhood Plan" [APC submission on AL/107/16/RES, 'Land west of Westergate Street and east of Hook Lane', 18th July 2018].

2.3 Biodiversity Net Gain off-setting

The Parish Council would still support the objective of designating the site a country park. However, in the light of the new Biodiversity Net Gain (BNG) regulations introduced under the Environment Act 2021, we propose as an alternative that the area of the application be designated a Biodiversity Net Gain off-setting site.

The new draft Arun Direction of Travel (DoT) document has as one of its 'Vision and Objectives':

"Seeking opportunities to promote and allocate land for [BNG] offsetting purposes..." [DoT 3.7, Environment] and includes as one of its DoT policy options in chapter 5, 'Our Environmental Life Support Network':

"Through working with residents, community groups and landowners, seek policies to promote and secure areas of Arun for BNG and nature-based solutions" [DoT 5.4, policy options]

Nominating the site an area for BNG off-setting would secure the rich diversity demonstrated by both the applicant's own ecologists in their Ecological Impact Assessment and the Parish Council in reports it has commissioned.

3 Education

Parents in the Parish are already experiencing significant difficulties in obtaining both primary and secondary school places for their children. Increasing the population of the Parish by almost 10% if this application is granted will only compound these problems [Aldingbourne population 4,443 at 2021 census, ONS].

We note WSCC Education's objection to the application on the basis that *'local existing secondary schools are not able to accommodate the new pupils'*, and that *'The existing secondary school provision is unable to expand, and the lack of an allocated or secured site for a new secondary school means that this new education facility cannot be relied on in the short term'* [WSCC initial submission, 12th March 2024].

We further note, and concur with, WSCC Education's additional concern in their revised submission, uploaded to the Arun Portal on 26th March 2024, that while the BEW scheme as a whole will provide a new primary school, the current application does not provide a new primary education facility. Yet once it is complete, the pupils it produces will need schooling – **before** the provision elsewhere in the Strategic Allocation is complete. WSCC conclude:

"Consequently, the County Council must object to housing coming forward ahead of the BEW school site until the school site is secured and can be progressed, as this is the only reasonable approach to dealing with the required mitigation".

The Parish Council considers that this objection, and the reasons for it, must be accorded significant weight in determining the application.

4. Flooding/sewerage

The Aldingbourne Neighbourhood Plan ('ANP'), made in June 2021, states:

Policy EH5: Surface water management. New development within areas at risk from flooding will not be permitted unless it is supported by a site specific Flood Risk Assessment which provides clear evidence to demonstrate that the proposal would not give rise to additional risk of flooding either to the development site or to other land arising from the carrying out or use of the development and would make appropriate provision for accommodating the surface water and foul water arising from the development.

We support the requirement by the Environment Agency in their submission for further information on the grounds that the applicant is inadequate to be assessed by its Evidence and Risk Team. However, we disagree with the Agency that any outfalls at all to the Lidsey Rife should be allowed, even under the issuance of a Flood Risk Activity Permit, as the Rife is a chalk stream, a priority habitat under the UK Biodiversity Action Plan.

Although the application contains proposals [Foul Water Drainage Strategy Option 1, and Options 2 and 3, 12th February 2024] to redirect and upgrade some parts of the foul water drainage system, it is still proposed to use the existing pipework running alongside the Lidsey Rife. However, the Parish Council wishes to bring to planning officers' attention that raw sewage is currently overflowing from this pipeline in four places in the south of the site and has been for at least the last 12 months. This has been reported multiple times to Southern Water by residents.

The Parish Council questions how pipework that cannot currently contain sewerage from existing homes in the Westergate/Eastergate area to the north will be able to cope with the effluent from the 400 homes to be built on the site, even with some additional pipework.

We note that Southern Water in its submission of 5th March 2024 states that only 50 dwellings will be able to be connected to the existing public sewer network without reinforcement being provided, and that it therefore requires a condition that occupation of the development must be '*phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development*'.

Furthermore, the foul water sewers located both the north of the site (on Barnham Road) and south have overflowed on a regular basis not just during this winter, causing complete closure for over a month of this vital route to the rail station and other important services in Barnham, but year-round for many years with more limited rainfall levels. Although Southern Water propose future upgrading works to the Lidsey Wastewater Treatment Works, they have identified that groundwater will still enter the sewerage system and cause overloading. APC argues that this problem should be accorded significant weight.

In addition, the Parish Council notes that in its response to application WA/111/23/PL for two properties in Walberton parish, Southern Water stated that further development of any size will overburden the drainage in this catchment area with rainfall even in summer tipping the system over the edge.

If Arun is minded to grant this application, the Parish Council requires as a condition precedent to any development being commenced on development site that the Lidsey Wastewater Treatment Works is first upgraded and works to the sewer pipework connecting to it are fully complete.

5 Connectivity/access

There are a number of public rights of way (footpaths) across the site and these play an important role in providing routes for residents to reach local facilities. The proposals for upgrading or improving these are vague and lack commitment. It would appear from the proposals that more than one footpath will require diversion and the applicant's documents on this are silent on how this is to be achieved.

The application does not pay sufficient attention to creating a genuinely attractive walking and cycling route to connect this site to the community. This is the strategic intention as mentioned by the Case Officer in their report on the previous Cala application (AL/15/17/PL) which said that '*the new dwellings would be part of Westergate as opposed to any new development east of the rife which would form part of the new settlement*'. In other words, this part of the BEWSA should be seen as 'extended Westergate' rather than an eastern attachment to the CC Projects land and the core of the BEWSA. Walking distances between the extremities of the development and existing facilities are too long.

The applicant makes limited reference to the sustainability of the site with just generic comment on travel to and from the same. There is no provision for a bus service or opportunities for cycling and walking. The framework provided in relation to travel appears to be generic and simply goes through the motions.

6 Aldingbourne Neighbourhood Plan (ANP) policies

Summary of the Neighbourhood Plan policies either contravened or not addressed by the application:

- 6.1 Policy EH5: Surface water management. *New development within areas at risk from flooding will not be permitted unless it is supported by a site specific Flood Risk Assessment which provides clear evidence to demonstrate that the proposal would not give rise to additional risk of flooding either to the development site or to other land arising from the carrying out or use of the development and would make appropriate provision for accommodating the surface water and foul water arising from the development.*
- 6.2 Policy EH2: Green Infrastructure and Ecosystems services. *New development within, or immediately adjacent to the Biodiversity Corridors will need to clearly demonstrate that development proposals will not give rise to any significant harm to the integrity or function of the Biodiversity Corridor.*
- 6.3 Policy H4: Affordable housing. *Any proposal for 10 or more new dwellings should include 30% affordable units. The size and tenure of affordable units should reflect the latest available housing needs evidence.* The application does not support this objective, and we endorse the comments made by the Aldingbourne Barnham and Eastergate CLT in their submission which object to the development on the basis of the lack of contribution to the existing community.
- 6.4 Policy EH4: Protection of watercourses. *Proposals that support and promote river catchment management, wildlife conservation and reduce flood risk will be supported.*

- 6.5 Policy EH6: Protection of trees and hedgerows. *Development that damages or results in the loss of trees of arboricultural and amenity value or loss of hedgerows and/or priority habitat, or which significantly damages ecological networks will be resisted, unless the need for, and benefits of, development in that location clearly outweighs the loss.*
- 6.6 Policy EH12: Protection of bat habitats. *In order to be fully compliant with the Habitats Directive relating to the Singleton and Cocking Tunnels SAC qualifying features, proposals for the development of greenfield sites within the Parish (most of which falls within the SAC's 12km Wider Conservation Area) must evaluate whether there is a potential for the loss of suitable foraging habitat and/or severance of commuting flight lines, such as in the form of mature treelines, hedgerows and watercourses. If so, such features must be preserved unless surveys demonstrate that they are not used by Barbastelle, Bechstein or other bats linked with nearby roosting sites. Care must also be taken through development design to ensure that such retained features are not affected by artificial lighting.*
- 6.7 Policy GA2: Footpaths and Cycle Path networks. *Support will be given to proposals that improve and extend the existing footpath and cycle path network, allowing better access to local amenities and services, to green spaces, to any new housing and to the open countryside. **The loss of existing footways and cycle paths will be resisted [emphasis added].***
- 6.8 Policy LC4: Provision of Allotments. *Proposals that contribute to the provision of allotments either by making land available for those purposes or by means of financial contributions through legal agreements or (when adopted for the District) the Community Infrastructure Levy, will be supported.*
-

7 WIDER SIGNIFICANCE OF THE APPLICATION

While comments on this application are confined to the Cala site, which is within our Parish, the Parish Council notes that other applications have been made for the Barnham, Eastergate, Westergate Strategic Allocation (BEWSA) site, and is concerned about the cumulative impact on local infrastructure of construction on three large developments in close proximity to each other taking place at the same time.

We therefore argue there should be a moratorium on development throughout the BEWSA site until the infrastructure issues are resolved and a framework for the delivery of the BEWSA infrastructure is properly set out.

This submission outlines our main areas of objection, but the Council reserves the right to make additional comments as matters progress.

Yours faithfully

Marie Singleton
Parish Clerk/RFO



Parish Office: C/o Aldingbourne Community Sports Centre, Olivers Meadow, Westergate, PO20 3YA

APPLICATION AL/11/24/OUT: LAND EAST OF WESTERGATE STREET

ALDINGBOURNE PARISH COUNCIL ECOLOGICAL IMPACT REPORT

TO BE READ IN CONJUNCTION WITH THE COUNCIL'S OVERALL SUBMISSION ON THE APPLICATION, 28/3/24

This submission by Aldingbourne Parish Council is in response to application AL/11/24/OUT, 'Land east of Westergate Street'. The Council **objects** to the application.

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- 3 Concerns over individual species:
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- 4 Conclusions

Appendix: list of bird species recorded at the site

1 INTRODUCTION

The application site occupies 19.35ha to the east of Westergate Street, with the whole of its eastern boundary being the Lidsey Rife chalk stream. It forms part of Arun District Council's ('ADC') Barnham/Eastergate/Westergate Strategic Allocation ('BEWSA'), which is intended eventually to provide 4,300 homes.

However, whereas the rest of the Strategic Allocation area is arable farmland and therefore monoculture, the site covered by the application comprises unimproved grassland, scrub, wet woodland, 2kms of hedgerow, many mature trees, and a chalk stream Rife. Two of these features, the hedgerows and wet woodland, are classified as 'priority habitats' in the UK Biodiversity Action Plan. As a result, the site supports considerable biodiversity, as demonstrated not just by the

applicant's own Ecological Impact Assessment, but also by two reports for the Parish Council in connection with the allocation, and by residents' logged sightings of species (appendices 1, 2 and 3 respectively). In addition, it is adjacent to the Lidsey Rife Biodiversity Opportunity Area (BOA), which represents a priority area for the delivery of UK Biodiversity Action Plan targets.

2 POLICY CONTEXT

The principal policy context the Parish Council has had regard to in this report is:

- The Aldingbourne Neighbourhood Plan, made in June 2021
- The Arun Local Plan 2018
- The Government's National Planning Policy Framework (NPPF), revised in December 2023
- The Wildlife and Countryside Act 1981
- The Natural Environment and Rural Communities Act 2006 (NERC), in particular Section 41

The Parish Council has also had regard to Arun's new draft 'Direction of Travel' document (February 2024) as the first stage in the making of its new Local Plan.

2.1 ALDINGBOURNE NEIGHBOURHOOD PLAN: BIODIVERSITY CORRIDOR

The Aldingbourne Neighbourhood Plan denotes all the hedgerows and the wet woodland on the site a Biodiversity Corridor. This decision was taken based on previous ecology surveys for the Council which had demonstrated abundant foraging and commuting routes for bats throughout the site, there had also been frequent sightings on the site by residents of water voles, red and amber-listed bird species and slow-worms.

Policy EH2 of the Neighbourhood Plan states:

"New development within, or immediately adjacent to, the Biodiversity Corridors identified on maps A1 and A2 will only be supported where it can be clearly demonstrated that development proposals will not give rise to any significant harm to the integrity or function of the Biodiversity Corridors".

The Council considers that the application directly contravenes this policy, and that the development proposals will give rise to significant harm to the integrity and function of the Corridors. The Council notes and concurs with CPRE's strong objections to the removal of hedgerows on the site [CPRE submission, 14th March 2024].

2.2 ARUN LOCAL PLAN

Policy ENV SP1, Natural Environment, states that:

"Arun District Council will encourage and promote the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites [...]"

Section 17.2 of the Arun Local Plan states:

17.2 Non-designated sites

17.2.1 Much of our biodiversity occurs outside sites which are not subject to legal protection under national and EU law. These include hedgerows, watercourses and associated riparian zones. A network of protected areas and ecological corridors available to support the movement of species and to sustain habitats, ecological processes and functions is necessary to maintain biodiversity. Article 10 of the Habitats Directive requires EU member states in their land-use planning and development policies to encourage the management of features which constitute such ecological networks, and which are of major importance for wild fauna and flora. Such features are those which by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods) are essential for the migration, dispersal, and genetic exchange of wild species. It is important that the preservation and enhancement of biodiversity is considered as part of the design of proposed development schemes from the outset”.

2.3 NATIONAL POLICY PLANNING FRAMEWORK (NPPF) 2023

Paragraph 186 of the NPPF states that:

“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”.

The Council does not believe that significant harm to biodiversity resulting from this application can be avoided.

Paragraph 188 states:

“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”.

The Council contends that the Ecological Impact Assessment (EIA) carried out does NOT demonstrate that the application will not adversely affect the integrity of the habitats site.

2.4.1 THE WILDLIFE AND COUNTRYSIDE ACT 1981/THE NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT (NERC) 2006

Our submission references the two Acts where relevant in its objections below in connection with particular species.

3 CONCERNS OVER INDIVIDUAL SPECIES

3.1 WATER VOLES

The water vole is a protected species under the Wildlife and Countryside Act 1981. It is also listed as ‘rare and most threatened species’ under Section 41 of the NERC. It is the UK’s most

rapidly declining mammal, with its numbers reducing by 97% since the 1970s, partly because of habitat loss.

The applicant's Ecological Impact Assessment (EIA), carried out by Eco support Ltd and issued in August 2023, did not find any water voles at the site. The Parish Council was surprised by this claim, as these mammals have always been a feature of the site in and around the Lidsey Rife and numerous residents have seen them, including very recently.

It therefore appends to its submission two separate recent accredited surveys which clearly demonstrate the presence of water voles at the site:

- A new and yet unpublished survey provided to the Council by the Arun and Rother Rivers Trust (ARRT) carried out in June 2023 along the entire length of the Lidsey Rife at the site. This conclusively demonstrates the presence of water voles, as evidenced by the discovery of burrows throughout the watercourse, feeding signs and latrines (separate submission, titled 'Aldingbourne Parish Council: ARRT Water Voles survey')
- In addition, the Parish Council commissioned an even more recent survey of its own by an ACIEEM-qualified ecologist which took place in week commencing 18th March 2024. Water vole surveying would not normally be carried out until April, as that is when the animals are likely to be more abundant, but the time of year the application was submitted and the deadline for submissions of 31st March left us little choice.

Despite this limitation, this survey too conclusively demonstrated the presence of water voles along the entire length of the Rife, with the following findings being made:

Qty 1 adult water vole seen
Qty 8 burrow entrance
Qty 9 feeding remains
Qty 8 latrines
Qty 1 confirmed 'classic' footprint (there were many water vole footprints at the latrines, which were not well defined)
Qty 5 runs

Full findings and methodology are given in the report, a separate submission titled 'Aldingbourne Parish Council: Gray's Ecology Water Voles survey'.

The Biodiversity Corridor identified in the Aldingbourne Neighbourhood Plan of 2021 includes the whole length of the Lidsey Rife plus the vegetation along each of its banks. The Parish Council does not consider that the applicant's plan for a 'linear park' alongside the Rife will sufficiently protect the water voles now proven to inhabit it, while the proposed road bridge across the Rife will lead to their habitats around the bridge being completely destroyed.

The Natural England regulations on mitigation include in the worst-case trapping and moving individual animals to 'receptor sites', but state:

"Any new habitat acting as a receptor site should be nearby and must be capable of supporting water voles before any trapping starts.

“Natural England will only grant a licence to translocate water voles off site or take them into captivity as a last resort. The proposal [to do so] should include evidence that removing water voles from the site will:

- not have a detrimental effect on the source population*
- benefit water vole conservation*

[Natural England Guidance, Water Voles: advice for making planning decisions, January 2022]

The Parish Council argues that with a total of 4,300 homes due to be built on the BEW Strategic Allocation site in total, it will be difficult to find sites ‘nearby’. Moreover, a significant factor in the huge decline in water vole population is the fact that they require such a specific habitat - as the watervole.org.uk website states, ‘Nowadays water voles are failing to thrive due to a desperate shortage of ideal habitat’. Introducing water vole populations into areas as part of conservation plans frequently fails because the voles’ needs are not met – capturing the individuals that currently live on the application site and attempting to create new populations elsewhere must have a significant risk attached.

3.2 BATS

All bat species, their breeding sites and resting places are protected by UK and European law. The Parish has previously been demonstrated to be rich in bat species, with ‘regionally significant’ Barbastelle activity being recorded in transect surveys carried out for the Council in 2021 by Gray’s Ecology [Bat Activity Transect Surveys 2021, Aldingbourne Parish].

In addition, the Parish and the application site fall within the 12km buffer zone of the Singleton and Cocking Tunnels Special Area of Conservation (SAC).

The Council is extremely concerned that the bat species recorded at the site by the EIA include not just Barbastelles but also Bechstein’s bats (*Myotis Bechsteinii*), described by the Bat Conservation Trust as ‘one of our rarest bats, found only in parts of southern England and southwest Wales’.

We note particularly figure 18 of the EIA, which demonstrates the key bat commuting routes identified at the site – by definition, it will be impossible to retain this once construction has begun. Section 7.7.7 of the applicant’s Environmental Statement states that ‘the development will result in the loss of 1.05km of hedgerow/tree lines on site’.

The Assessment reveals a confirmed summer day roost for Common Pipistrelle and Soprano Pipistrelle bats in one of the oak trees at the site. Under the plans submitted by the applicant, this tree is due to be retained, but there must be significant doubt that bats will continue to roost there if their commuting and foraging routes are destroyed by the development.

Furthermore, in a letter to the Parish Council Gray’s Ecology have expressed very significant concerns about the methodology used in the EIA in respect of bats. Their ecologist concludes in the letter:

“Insufficient survey effort has been carried out to understand the potential impact upon Bechstein’s and barbastelle bats within the site. The application lacks properly informed, detailed mitigation to adequately account for the loss of trees, hedges, and grassland foraging and commuting habitat present within the site. In my professional opinion, when taking account of the potential impact upon the Qualifying Species of the Singleton and

Cocking Tunnels SAC, it is not possible to determine that a significant impact upon the SAC site would be avoided” [Letter to Aldingbourne Parish Council from Gray’s Ecology, 27th March 2024].

Gray’s Ecology’s detailed concerns are set out in the letter, a separate submission entitled ‘Aldingbourne Parish Council: letter from Gray’s Ecology on bat and water vole methodology’.

3.3 SLOW-WORMS

The slow worm is a protected species under the Wildlife and Countryside Act 1981, as are all British native reptiles. All are also listed as ‘rare and most threatened species’ under Section 41 of the Natural Environment and Rural Communities Act 2006.

The Natural England guidance on reptiles and planning decisions states:

“Where possible, [planning] proposals should avoid affecting reptiles [...].

Activities that can harm reptiles include:

- *losing links between habitat patches, in particular hibernation sites and sites used in the active season from April to September*
- *reduction in habitat quality, such as damaging vegetation [...].”*

[Natural England, ‘Reptiles: advice for making planning decisions’, January 2022].

The Ecological Impact Assessment reveals that as many as 29 slow worms were found at any one time during the Eco support monitoring, which it describes as a ‘low’ population. In addition, a maximum count of 11 common lizards was found, also described as a ‘low’ population.

However, the advice sheet on reptile surveying issued by the charity Frog life states that any site with an assessed population of more than 20 slow worms seen by one person in one day should be considered to have an ‘exceptional population’. Having an exceptional population of one reptile species, as this site therefore now does, means that it qualifies for the Key Reptile Site Register, a mechanism designed to promote the safeguard of important reptile sites.

The Parish Council therefore requests that Arun denote the site a Key Reptile Site as soon as practicable and considers whether the application is premature in the light of this discovery.

The Assessment proposes to either deter or translocate slow worms from the site. The Natural England guidance cited above states that translocation ‘*should be considered as a last resort*’ and lists six conditions that must be met in obtaining a suitable habitat to which to move the reptiles.

The Parish Council considers that with the high numbers likely to be found on the site in the future, translocation to an appropriate site ‘close to the development site’ as required would not be feasible and would be extremely risky.

3.4 BIRDS

A total of 32 bird species were recorded by the Breeding Bird Surveys the applicant's Ecological Impact Assessment. A total of seven red-listed birds and five amber-listed were recorded, including the Lesser Spotted Woodpecker, an extremely rare species in Sussex, Yellowhammer and Song Thrush.

The Sussex Biodiversity Record Centre (SxBRC) have records at the site for a total of 66 'notable and protected' bird species, including Cetti's Warbler, Linnet, and Song Thrush.

An appendix to this submission additionally contains a list of the 28 bird species recorded at the site over the last 12 months by Parish resident and birder Mr Neil Knapp.

The Council contends it will be impossible for the removal of the designated hedgerows and trees under the application NOT to have an extremely detrimental impact on the breeding birds at the site.

The Council notes and concurs with the strong objection from the Sussex Ornithological Society to the application [submission dated 6th March 2024]. We note their objection that the Natural England 'Wild Birds' guidance on advice for making planning decisions requires a full onsite survey of wintering birds, in addition to the Ecological Impact Assessment's survey carried out in March, April, May and June (i.e. no surveys between July and February).

4 CONCLUSIONS

The evidence cited, and concerns expressed, above lead the Parish Council to consider that the application would have a catastrophic impact on biodiversity at the site.

The Council has set out in its overall submission on the application how we think the rich biodiversity of the site within the Barnham, Eastergate, Westergate Strategic Allocation (BEWSA) overall could be preserved:

- Either by designating the site a Country Park within the BEWSA as proposed in the original 'Visioning Document' prepared for ADC for the BEW site, and as the Parish Council argued in its July 2018 submission in response to the previous application for this site (AL/107/16/RES)
- Alternatively, in the light of the new Biodiversity Net Gain (BNG) regulations introduced under the Environment Act 2021, we propose that the area of the application be designated a Biodiversity Net Gain off-setting site. This would accord with the new aims of the new draft ADC 'Direction of Travel' document.

APPENDIX: LIST OF BIRD SPECIES RECORDED AT THE SITE BY PARISH RESIDENT AND BIRDER MR NEIL KNAPP

12 months to March 2024

Raptors

Little owl
Tawny owl
Barn owl
Peregrine – visitor
Red kite – visitor
Buzzard
Kestrel
Sparrowhawk

Other species

Kingfisher
Yellowhammer
Linnet – visitor
Fieldfare – visitor
Little Egret
Heron
Whitethroat – migrant
Cetti's warbler
Wood warbler
Greenfinch
Skylark
Green woodpecker
Greater spotted woodpecker
Mistle thrush
Song thrush
Goldfinch
Stonechat – visitor
Swallow
Swift
House Martin

Water Vole Walkover Survey

Site: Land East of Westergate

Client: Aldingbourne Parish Council

Version 002

Issued By:
Gray's Ecology
22 Church Road
East Wittering
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Life Span of Survey Data and Report			
Report	This report remains valid for 12 months from date of issue. The report, conclusions and recommendations are valid for current development plans only. If these plans are changed, it will be necessary to review this report in the context of those changes, to assess whether further desk study and survey work will need to be undertaken.		
Survey Data	Survey data are valid for 12 months from the date the survey was undertaken.		

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1 Introduction

1.1 Purpose of the Report

Gray's Ecology were commissioned by Aldingbourne Parish Council to undertake an ecological walkover of a section of Lidsey Rife to the east of Westergate village, to evaluate the potential for water vole *Arvicola amphibius* to be present within the watercourse.

1.2 Site Context

The Lidsey Rife is a narrow watercourse that flows south within a steep-sided channel. Lidsey Rife is bordered to the west, within the surveyed area by an open area of rough neutral grassland, scattered scrub, mature hedgerows with trees and a small area of woodland. The land to the east of Lidsey Rife is comprised mainly of open arable farmland. A map of the location of the surveyed area is shown in Figure 1 below.

Figure 1. Map showing extent of the 625 metres (m) surveyed section of Lidsey Rife (denoted by the red line), from National Grid Reference (NGR) SU 94230 04951 in the south to NGR SU 94325 04362 in the north.



© Google Earth 2024.

2 Legal Protection and Planning Policy

This section provides a summary of legislation and planning policy for water vole.

Water voles are fully protected in England and Wales, under Section 9 of Schedule 5 of the Wildlife and Countryside Act, 1981 (as amended), making it an offence when acting without a licence from Natural England to:

- Intentionally kill, injure or take wild water voles. Section 9 (1).

- Possess or control live or dead wild water voles or any derivative part of a water vole. Section 9 (2).
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection. Section 9 (4).
- Intentionally or recklessly disturb wild water voles whilst occupying a structure or place used for that purpose. Section 9 (4b).
- Intentionally or recklessly obstruct access to any structure or place which any wild water vole uses for shelter or protection. Section 9 (4c).
- Sell wild water voles or offer or expose for sale or transport for sale. Section 9 (5a).
- Publish or cause to be published any advertisement which conveys the buying or selling of wild water voles. Section 9 (5b).

Natural England considers that the following actions do not require a licence as no offence is being committed:

- walking riverbanks or wading along watercourses to look for field signs.
- stopping to examine potential burrows.
- observing a known burrow from a distance or concealment.
- Water voles are listed as a Priority Species under the UK Post-2010 Biodiversity Framework.
- Water voles are listed as endangered on both the Great Britain and the England Red List for Mammals.

Water voles are listed as rare and most threatened species under Section 41 of the Natural Environment and Rural Communities Act (2006).

Local Authorities must consider water voles within the context of Part 6 of the Environment Act 2021. The Office of the Deputy Prime Minister (ODPM) Circular 06/05 requires that the presence of a protected species is treated as a material consideration when a planning authority is considering a development proposal. This is reflected within paragraphs 185 and 186 of the National Planning Policy Framework (Dec 2023), through BS 42020 – *a code of practice for biodiversity in planning and development* and Policy ENV SP1 of the Adoption Arun Local Plan 2011-2031 (July 2018).

Full details of the main legislation can be found online at the following websites:

- Wildlife and Countryside Act, 1981 (as amended). Available online at:
<http://www.legislation.gov.uk/ukpga/1981/69>. (accessed March 2024).
- Countryside Rights of Way Act, 2000. Available online at:
<http://www.legislation.gov.uk/ukpga/2000/37/contents>. (accessed March 2024).
- Natural Environment and Rural Communities Act, 2006. Available online at:
<http://www.legislation.gov.uk/ukpga/2006/16/contents>. (accessed March 2024).
- Environment Act, 2021. Available online at:
<https://www.legislation.gov.uk/ukpga/2021/30/part/6/enacted>. (accessed March 2024).
- Office of the Deputy Prime Minister (ODPM) Circular 06/05. Available online at:
<https://assets.publishing.service.gov.uk/media/5a78c5e7ed915404220853ab/147570.pdf>. (accessed March 2024).

3 Water Vole Walkover Survey

3.1 Surveyor Experience

Nick Gray is an ecological consultant with ten years of professional experience surveying UK wildlife and habitats. He has been monitoring the activities of water vole and north American mink within the Manhood Peninsula area for much of this time, where one of the UKs few original populations of water vole is still thriving. He has conducted weekly monitoring checks of active water vole populations on behalf of the Manhood Wildlife and Heritage Group for the past nine years. Nick also teaches water vole surveying and ecology to ecologists, conservationists and volunteers.

3.2 Methodology

A walkover survey was conducted in line with current guidance (Dean et. al., 2016) to look for signs of water vole and potential for water vole presence within the site. The survey was carried out by Nick Gray between 10:33 and 12:06 hrs on 21 March 2021. The weather was dry, temperature 16°C and the wind was estimated to average force 1 on the Beaufort scale. Care was taken to avoid a time close to any recent bad weather and periods of seasonally abnormal water level.

A single surveyor visited the site and walked along and within the water course for a distance of 625 metres upstream from the railway line on the southern site boundary. The search was then extended to include a minimum distance of 30 m beyond the western bank of the water course – land immediately beyond the eastern bank comprised arable land, which was considered to be unsuitable habitat for water vole and was not, in any case publicly accessible.

Areas of suitable water vole habitat, their burrows, runways, feeding signs, latrines, foot prints and any sightings of actual water voles were recorded and mapped. The suitability of bank topography and substrate structure was also noted, along with any field signs indicating the presence of known water vole predators, such as North American mink *Neovison vison*.

The results of this walkover survey are intended as supplementary only. The information provided within this report should be read in conjunction with the report provided by Hughes, S. (2024). *Water Vole Survey 20/06/2023*. Arun and Rother Rivers Trust. Petworth.

4.2 Constraints

Water voles are very shy animals and largely nocturnal, making it much less likely that these animals would be observed during this type of daytime survey.

The survey represents a snapshot of water vole activity at the site on the given day. Water vole populations are usually at their lowest densities during early spring. However, numbers may fluctuate from one year to the next and at different times of the year in response to changing environmental factors, such as disease, sudden increased predation (e.g. arrival of American mink), disturbance, water pollution, drought, changing water levels, loss of food sources or shelter etc.

A detailed habitat assessment was not carried out during this survey due to the seasonal lack of growth at the time of the survey. However, the habitat assessment provided within Hughes, S. (2024) is considered to remain a true evaluation for this purpose.

A 300 m section of the surveyed watercourse, extending north from the railway line culvert was found to be receiving untreated sewage. Therefore, it was not considered sensible or safe to enter the water within this section, which restricted the ability of the surveyor to view the lower part of the west bank.

3.3 Results

The site comprised a uniform section of the Lidsey Rife, extending upstream for 625 m in a northerly direction from the north side of the railway line culvert. The western bankside vegetation comprised lush grassland, tall-ruderal and riparian herb, including abundant emerging clumps of hemlock water dropwort *Oenanthe crocata* (a favorite food for water vole). The east bank comprised mostly hedgerow shrubs, with occasional bramble *Rubus fruticosus* scrub. Cultivated arable land dominated the east bank >2 m from the toe (Photo 1). The watercourse was approximately 3 m wide at the top of the banks, which sloped between 45° and 60° to the toe. The channel depth was approximately 2 m. The width varied between 0.5 m up to 2m. The water was fast flowing, with a depth that varied from 0.4 m to 0.2 m. The stream bed was formed from a uniform coarse gravel. The bankside substrate was comprised of a shallow loam over loose coarse gravel.

The first 300 m of the surveyed area was found to be heavily impacted by sewage, which was seen to be welling up through the ground and leaking into the rife from five locations along the western bank (Photo 2).

The survey recorded the following signs of water vole activity within the surveyed area:

Qty 8 water vole burrow entrance (Photos 3 -10)

Qty 9 water vole feeding remains (Photos 11 – 19)

Qty 8 water vole latrines (Photos 20 – 27)

Qty 1 confirmed 'classic' water vole footprint (there were many footprints at the latrines, which were not well defined) (Photo 28)

Qty 5 water vole runs (5 examples were recorded, but there were many of these that were connected, forming a network along the toe) (Photos 29 and 30).

Qty 1 adult water vole (visual sighting only).

No signs of invasive non-native species were recorded.

Maps showing the location of the identified features are presented in Appendix A.

3.4 Photos



1. Looking north—showing typical habitat present



2. Sewage seeping into Lidsey Rife



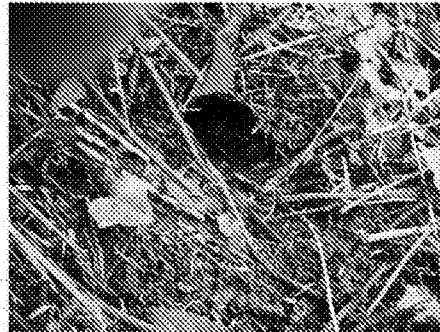
3. Water vole burrow entrance



4. Water vole burrow entrance



5. Water vole burrow entrance



6. Water vole burrow entrance



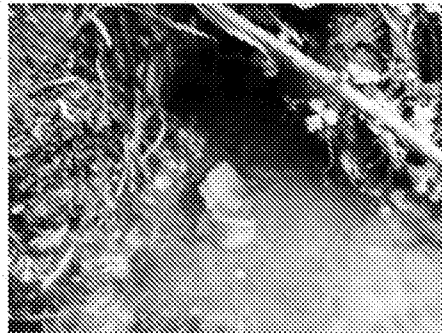
7. Water vole burrow entrance



8. Water vole burrow entrance



9. Water vole burrow entrance



10. Water vole burrow entrance



11. Water vole feeding remains



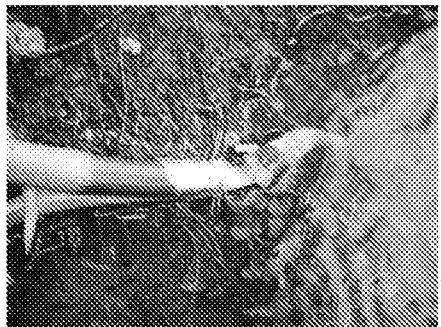
12. Water vole feeding remains



13. Water vole feeding remains



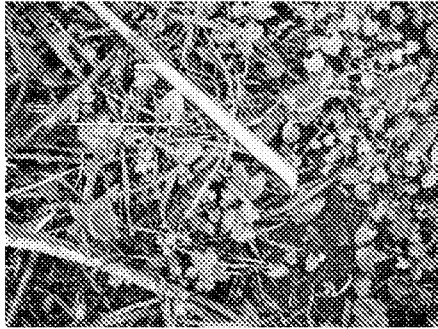
14. Water vole feeding remains



15. Water vole feeding remains



16. Water vole feeding remains



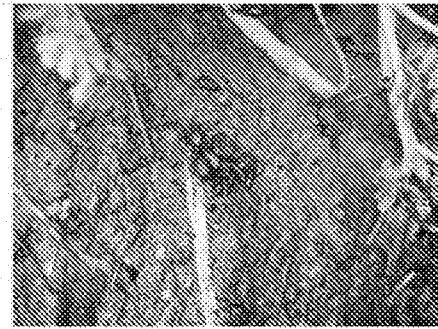
17. Water vole feeding remains



18. Water vole feeding remains



19. Water vole feeding remains



20. Water vole latrine



21. Water vole latrine



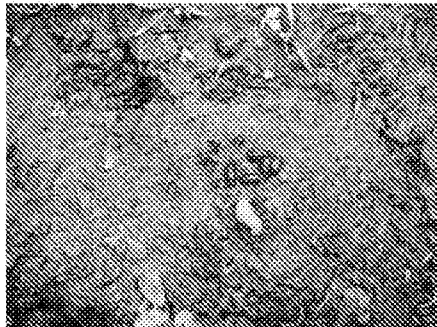
22. Water vole latrine



23. Water vole latrine



24. Water vole latrine



25. Water vole latrine



26. Water vole latrine



27. Water vole latrine



28. Water vole footprint



29. water vole runway



30. water vole runway

4 Discussion and Recommendations

Following the Ecological Walkover Survey, it has been established that water voles are present within the surveyed area.

In evaluating planning applications for developments on areas known or likely to support water voles, Local Authorities are advised by Natural England to ensure that Applicants submit qualitative and quantitative information with their planning application on how their development avoids or mitigates harm to water voles.

Activities that can harm water voles include:

- Destroying or damaging their habitat
- Destroying or disturbing places used for shelter or protection
- Changing water quality.

To understand the level of mitigation needed, the development proposal needs to show how likely it is that water voles will be affected by the development work, as well as the potential effects that development work may have upon the watercourse itself. This should consider the 'in-combination' effect of nearby works and the potential to impact negatively upon the conservation status of water vole within the wider area (Natural England, 2022). For such evidence to be considered reliable, it must be provided by a competent ecologist who has suitable experience of water vole survey techniques and appropriate mitigation methods.

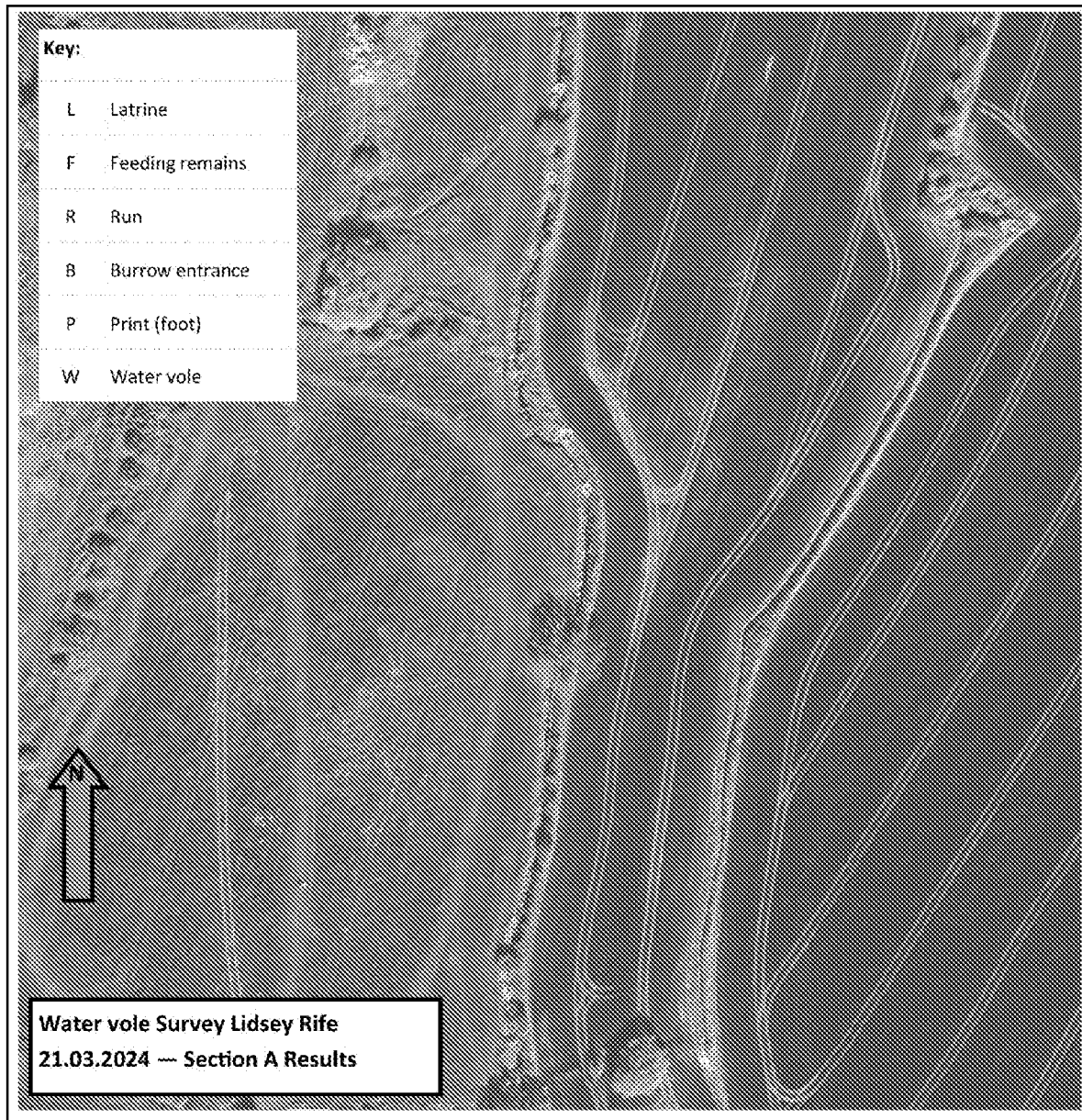
Should you require further advice on the information provided above, please do not hesitate to contact Gray's Ecology.

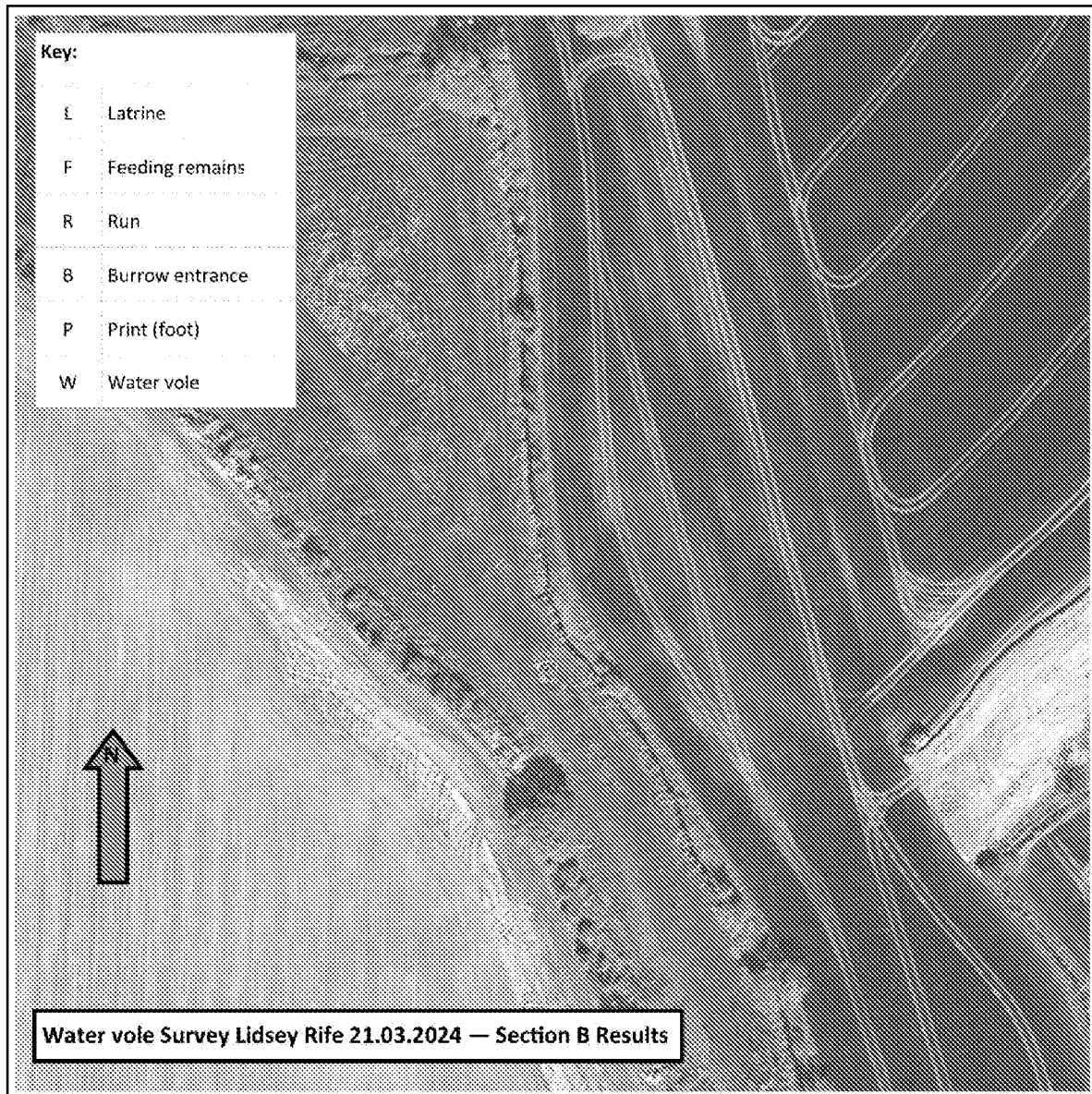
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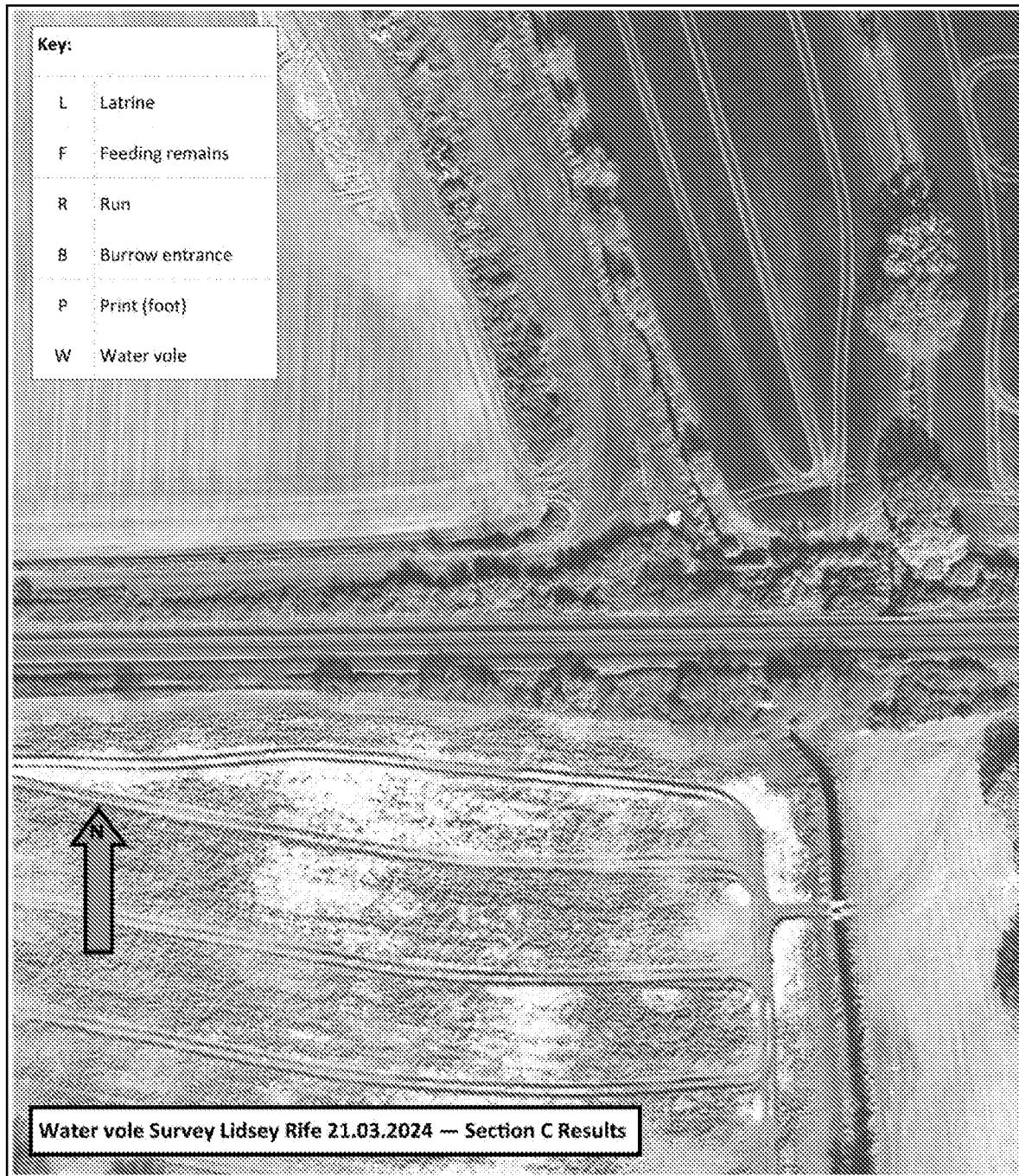
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- Natural England (2022) How to assess a planning application when there are water voles on or near a proposed development site (Online). Available online at: <https://www.gov.uk/guidance/water-voles-advice-for-making-planning-decisions#:~:text=Water%20voles%20are%20protected%20under%20control%20them%20alive%20or%20dead> (accessed March 2024).
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6 Appendix A – Survey Result Maps











Water Vole Survey 20/06/2023

Location:

South of Eastergate CE Primary School
Church Lane, Eastergate, PO20 3RD

Grid Reference: SU 94233 04759

Authors: Sarah Hughes

Version 001

Issued By:

Sarah Hughes (Senior Project Officer)
Arun & Rother Rivers Trust



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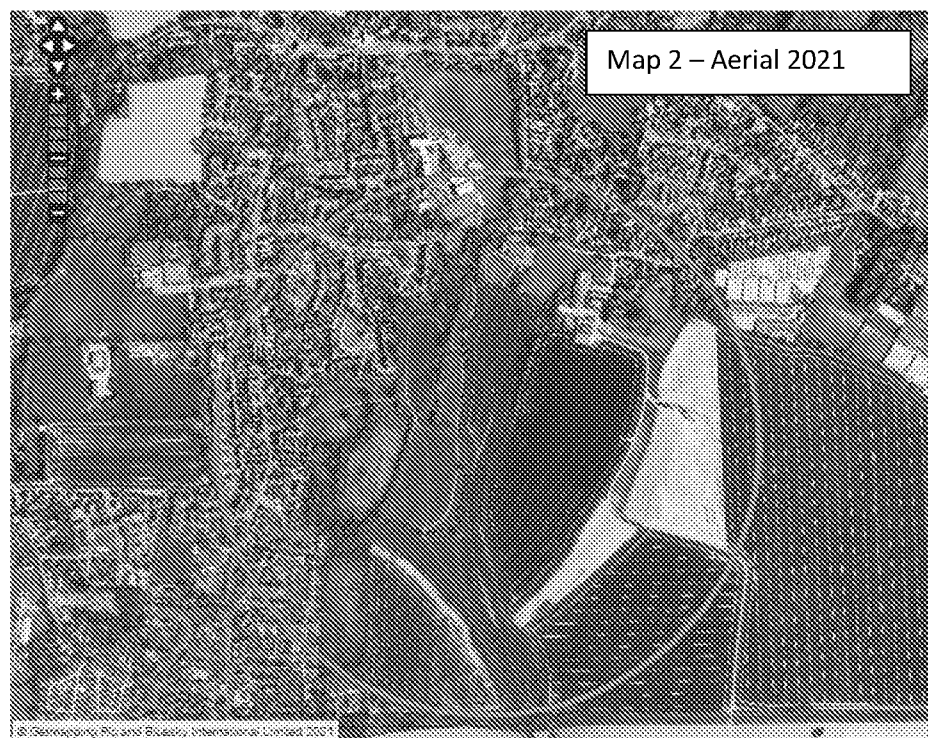
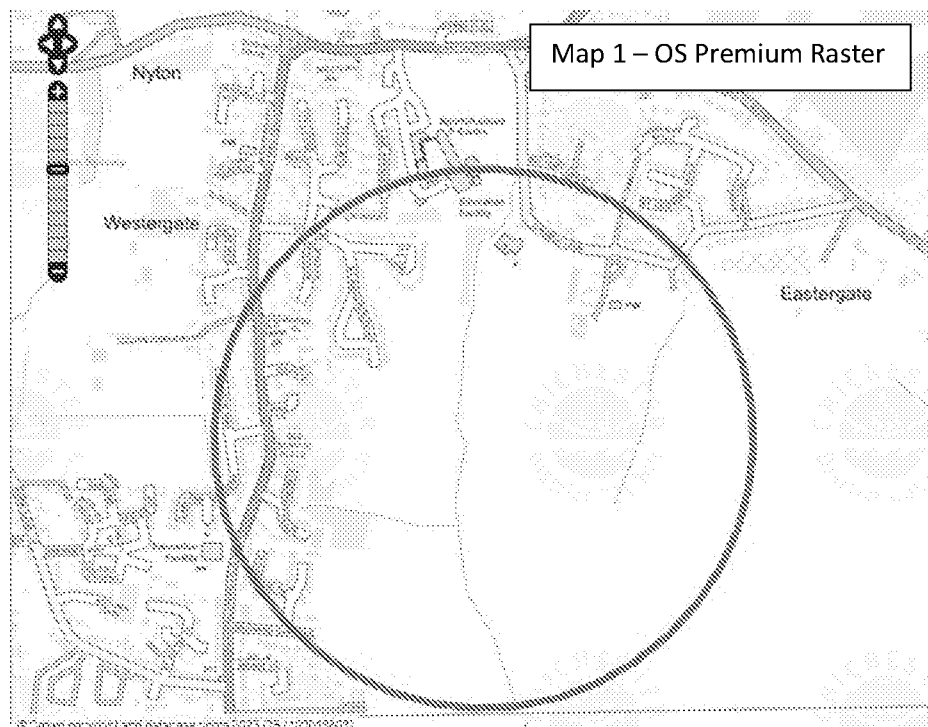
Document Control	
Prepared by	Sarah Hughes – Senior Project Officer for the Arun & Rother Rivers Trust N.B Sarah Hughes has been a wildlife officer for Chichester District Council for 21 years and a senior project officer for the Arun & Rother Rivers Trust for nearly 2 years and is an experienced water vole surveyor, identifying water vole latrines, feeding signs, track and burrows.

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1 Summary

This is a brief summary of findings and recommendations made from the water vole survey carried out on Tuesday 20 June 2023 at Eastergate, West Sussex, PO20 3RD. Please read the report in its entirety for full details.

1) The water vole survey area was conducted southwest of Eastergate C.E Primary School as shown in the below maps and is a vitally important green spaces for biodiversity/wildlife.

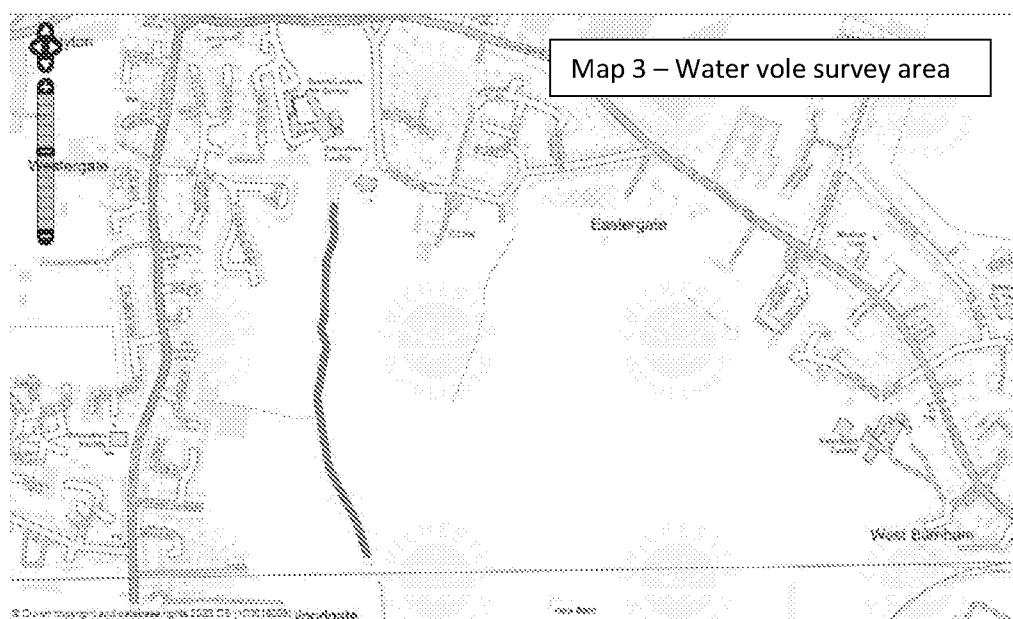


2) A site survey was conducted on Tuesday 20 June 2023, attendees: Trevor Morgan (local resident) and Sarah Hughes (Senior Project Officer at Arun & Rother Rivers Trust). Water vole spot check surveys were carried out along the Lidsey rife.

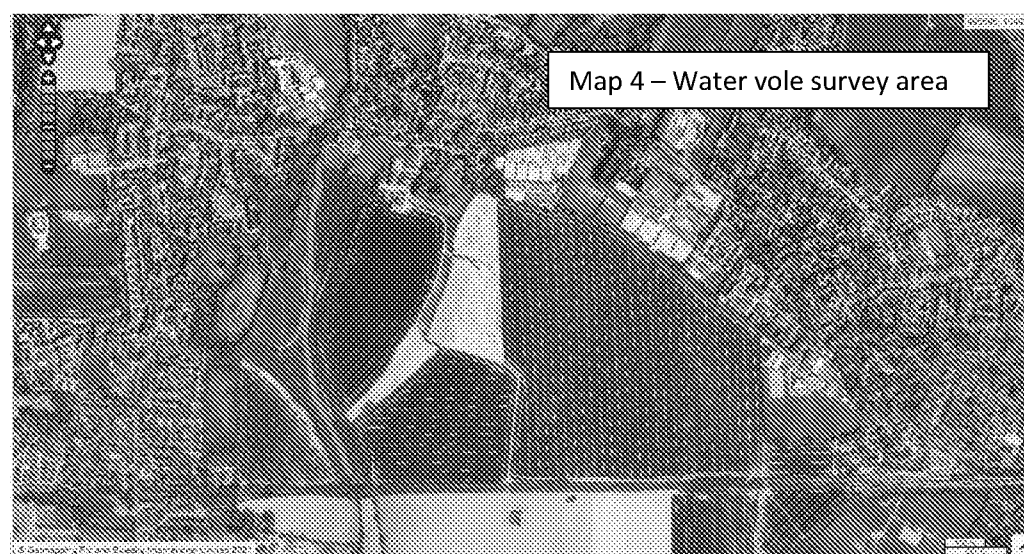
3) In line with Water Vole Guidelines, a water vole survey was carried out at the above site during June 2023, to identify water vole presence. Water vole survey involves searching the banks of the watercourse for evidence of water vole, including: burrows, latrines, footprints, runs in the vegetation, grazed 'lawns', feeding remains and actual sightings.

2 Maps

Map 3 – OS Premium – Water vole survey (red line)

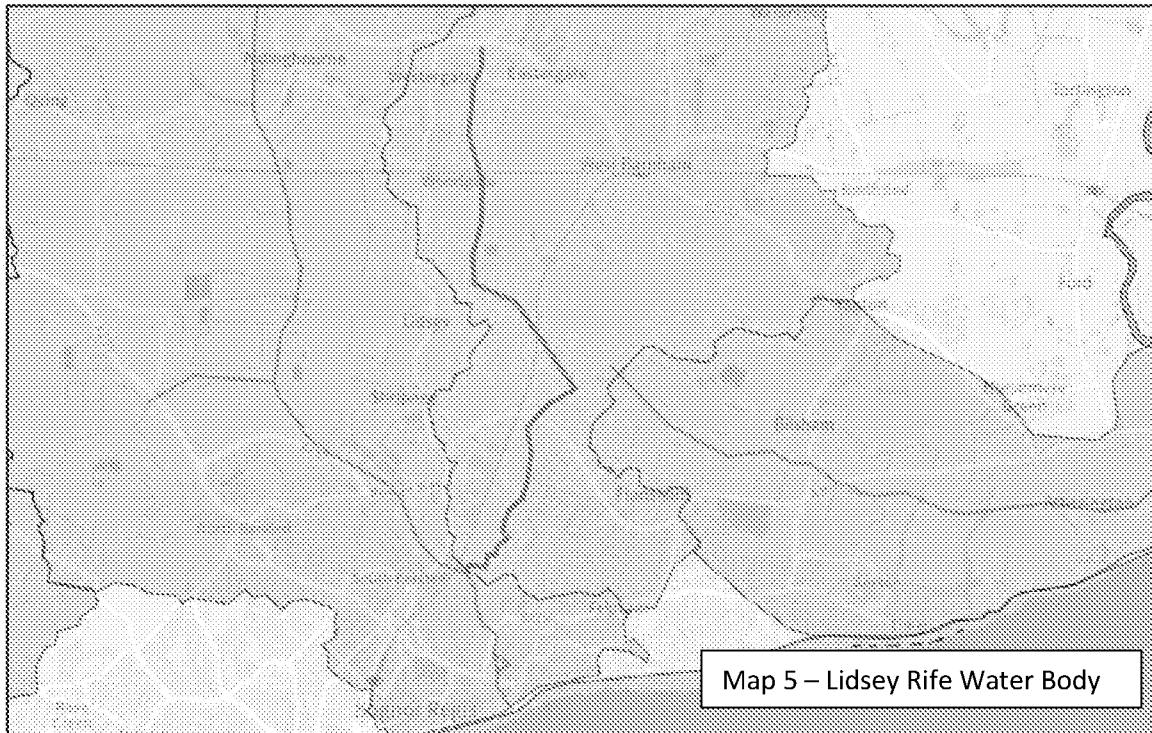


Map 4 – Aerial 2021– Water vole survey (red line)



This site is the start of the head waters of the Lidsey Rife (as shown in the below map) and is vitally important on a landscape scale for its connectivity to other water bodies (Aldingbourne Rife, Felpham Bathing Beach etc.), biodiversity species (especially with climate change migration/draught and flooding) and important to land drainage across the Lidsey & Aldingbourne Rife catchment areas.

Lidsey Rife Water Body Moderate ecological status



Further details on the Lidsey Rife Water Body

This site is adjacent/near to the Lidsey Rife Biodiversity Opportunity Area, as shown on the Sussex Biodiversity Partnership. The Lidsey Rife has been recognised as a Biodiversity Opportunity Area as it represents a priority area for the delivery of Biodiversity Action Plan targets. It is one of 75 such areas across Sussex. The BOA covers approximately 234 hectares.

Thus, making it a vitally important to protect and enhance the site for connectivity, biodiversity and for future generations to enthuse and appreciate this essential corridor for wildlife/biodiversity.

3 Legal Protection

The following text is intended for general guidance only and does not constitute comprehensive professional legal advice. It provides a summary of the current legal protection afforded to water voles.

3.1. Water voles are a conservation priority in the UK where populations have undergone a 90% decline during the past century (Strachan et al. 2000). The causes of the decline have primarily been attributed to the widespread loss of suitable wetland habitats and predation of populations by feral American mink (*Neovison vison*) (Jefferies et al. 1989).

3.2. The water vole is listed under the UK Post-2010 Biodiversity Framework which sets out targets and objectives for the conservation of listed species and is used to guide decision makers to have regard for these targets and the goals they aim to achieve.

3.3. The Chichester Coastal Plain is one of only two key regional areas for water voles in Sussex. These key areas are important for maintaining the sustainability of local and regional populations and are a priority for conservation efforts (Strachan et al. 2011). The conservation of water voles should be considered a high priority.

3.4. Water voles are fully protected under the Schedule 5 of the Wildlife and Countryside Act, 1981 in England and Wales. Under these regulations, it is an offence to:

- intentionally capture, kill or injure water voles
- damage, destroy or block access to their places of shelter or protection (on purpose or by not taking enough care)
- disturb them in a place of shelter or protection (on purpose or by not taking enough care)
- possess, sell, control or transport live or dead water voles or parts of them (not water voles bred in captivity)

If you are found guilty of an offence you could get an unlimited fine and up to 6 months in prison.

3.5. Appropriate mitigation measures will be required if the following impacts are identified:

- where habitat is to be destroyed or disturbed;
- if places used for shelter are to be destroyed or disturbed;
- if water quality is impacted and
- if work will increase habitat fragmentation between populations.

The mitigation measures should either avoid or compensate for any negative impacts and will require the mitigation strategy to be developed and incorporated into the proposed scheme.

4 Planning policy

The National Planning Policy Framework (NPPF) 2021 sets out government policy on biodiversity in planning decisions. Both the NPPF and the ODPM Circular 06/05 state that Local Planning Authorities should aim to conserve and enhance biodiversity. These documents set out the Government's view on how planners should balance nature conservation with development and helps to ensure that Government meets its biodiversity commitments with regard to the operation of the planning system.

The NPPF confirms that weight may be given to policies in emerging plans following their publication and that the wider benefits of an ecosystem should be recognised.

Both the NPPF and ODPM Circular 06/05 state that the presence of a protected species is a material consideration when a planning authority is considering a development proposal.

In accordance with the NPPF, it is important that developments should contribute to and enhance the natural and local environment by:

- Minimising impacts on existing biodiversity and habitats,
- Providing net gains in biodiversity and habitats, wherever possible,
- Establishing coherent ecological networks that are more resilient to current and future pressures.

5 Methodology

The surveys were undertaken during peak periods of water vole activity and in appropriate weather conditions, in accordance with best practice guidelines (Strachan, 2016).

The survey was conducted in accordance with standard best practice guidelines (Strachan et al. 2012, Dean et al. 2016) and consisted of searching for the following diagnostic field signs of water voles from within the channel.

- Latrines;
- Feeding remains;
- Burrows;
- Runways and
- Footprints.

6 Limitations of Water Vole Surveys

The results presented herein are considered to be an accurate representation of the general use of the surveyed site by water voles. Nevertheless, water voles may be present in larger or smaller numbers depending on their breeding cycle, different weather conditions, and in response to disturbance. The surveys record the activity of water voles at the time of the survey visit only, representing a snapshot of water vole activity at the site during that time. Water voles may be present at other times and the results should therefore be viewed with some caution.

The above survey limitations are unavoidable. However, it is considered that they have not affected the robustness of the survey results for the purposes of this study.

There were no limitations to the experience and competence of the surveyor conducting the survey.

7 Results of Water Vole Surveys

Survey conditions

The dates, times, weather conditions, temperatures and personnel for the survey visit are presented in table 1 below:

Table 1. Details of survey undertaken, dates, timings, weather conditions, temperatures, and personnel

Date of survey	Surveys start time.	Temp. degrees centigrade, weather conditions throughout survey	Surveyors
20 June 2023	Start time: 08.00	Actual Temp 17° dry Overcast	Sarah Hughes

Timing and weather conditions - timings of the survey coincided with the middle of the breeding season when latrines and other field evidence would be identifiable if water voles were present.

Water vole survey results

The following descriptions summarise the water vole activity during the survey visits on the 20 June 2023.

The water vole survey carried out on Tuesday 20 June 2023 started immediately south of Eastergate CE Primary School at approximately 08.00, following the Lidsey Rife south towards the railway line and finished around 13.00. Identifying water vole latrines, feeding signs, track and burrows.

During the water vole survey, evidence confirms water vole activity along the Lidsey Rife from Grid Reference SU 94251 05150 south to SU 94296 04451

Water vole habitat – the water course is heavily vegetated, which provides a food source and habitat for the protected and rare water vole as shown in the Photographic Evidence - images: 1, 2, 4, 6, 13 & 21.

Water vole burrows – water voles live in burrows that they build by biting into the banks with their very strong, enamel-coated orange teeth. These burrows can be very complex and consist of nesting and nursing chambers with two entrances, one on the bank and one underwater. Water vole burrows are roughly the width of a balled-up fist or a tennis ball. They live in burrows excavated within the banks of rivers, ditches, ponds, and streams. The burrows are connected to water sources and often have entrances at the water's edge or under water. Water vole burrows were located throughout the watercourse, which are shown in Photographic Evidence - images: 7, 9, 11, 14, 15, 16 & 17.

Water vole feeding signs – water vole leave distinctive feeding signs, these include:

- Nipped off vegetation with a distinctive 45° angle cut just above the stem of the plant.
- Plant stems left behind, their ends cut off at an angle.
- Nibbled stalks of grass in small piles along tunnels in long grass.

Evidence of water vole feeding signs are shown in Photographic Evidence - images: 8 & 12.

Water vole latrines - Water voles use latrines to mark out territories between February and November. Latrines are the most distinctive field sign left by water voles. They are usually deposited in discrete latrines. The droppings are cylindrical with blunt ends, usually 12mm long and 4-5mm wide, resembling a large 'tic tac'. The colour varies depending on the diet, from greenish through to dark purple/black. Voles will often rub their hind feet on scent glands they have on their sides and then stamp on the droppings, resulting in some latrines looking trampled or flattened.

Evidence of water vole latrines are shown in Photographic Evidence - images: 18, 19 & 20.

8 Ecological Constraints

The survey results show that the Lidsey Rife and its adjacent habitat represent a significant and important corridor and stepping stone for water voles and other wildlife.

Any actions or developments likely to have a negative impact upon water voles will need to be carried out under a Protected Species Licence, issued by Natural England for this purpose. Further advice is available via the following link: - <https://www.gov.uk/guidance/water-voles-protection-surveys-and-licences>

9 Conclusion

This site is the start of the head waters of the Lidsey Rife and any negative impact on the water course will affect the water bodies further downstream, which could include: Barnham Rife; Lidsey Rife; Aldingbourne Rife and the bathing waters at Felpham.

This site is a vitally important wildlife corridor, not only for the protected and rare water vole, but for many other rare and threaten wildlife (bats, otters, water shrews etc., which have been recorded on the National Biodiversity Network in the local area). The Lidsey Rife at the head waters is slow flowing with earth banks, which are heavily vegetated with the food source for water voles. The walk over survey has confirmed the presence of water voles.

Management actions that are water vole friendly, including:

- Buffer strips
- Sympathetic watercourse and ditch management
- Hedgerow and standard tree planting to improve connectivity across the site
- Restoring, recreating and managing wetland habitats

Protecting enhance the habitat for water voles will improve diversity on the site and also benefit other native wildlife – from amphibians to invertebrates.

This site is an essential wildlife corridor connecting the coastal plain to the South Downs National Park enabling species to be resilient to climate change (draught and flooding) and enabling species to move, breed and migrate across our landscape.

Water voles *Arvicola* amphibious have experienced one of the most rapid and serious declines of any British wild mammal ever. By the end of the 1990s we had lost more than 90% of our nation's water voles. This was due to habitat loss and fragmentation during the 20th century and more recent pressures from non-native American mink.

A recent report estimated a further 30% decline in the places where water voles live in England and Wales between 2006-2015.

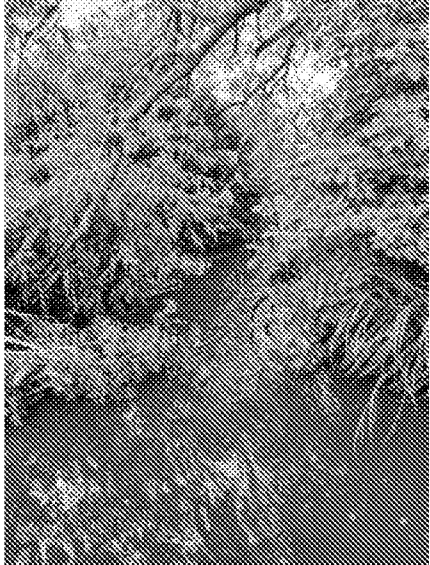
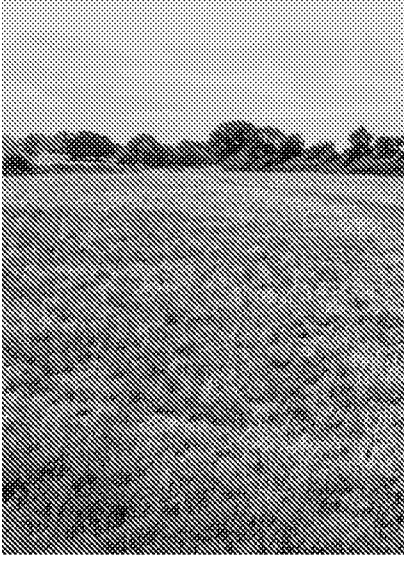
Details on managing land for water voles can be found on the following link - <https://assets.sussexwildlifetrust.org.uk/managing-land-for-water-voles.pdf>

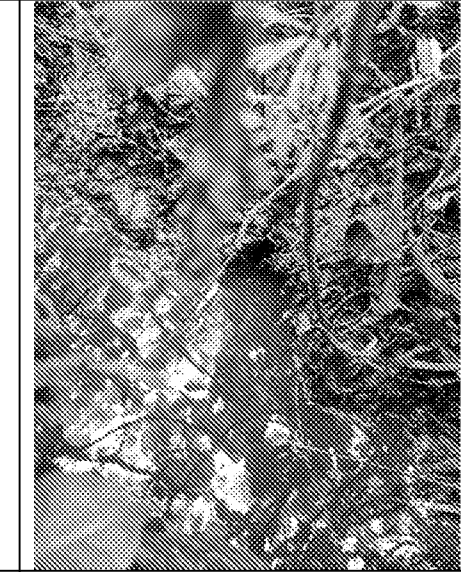
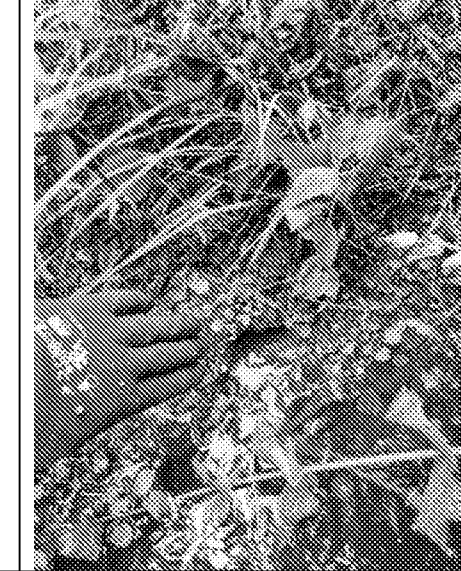
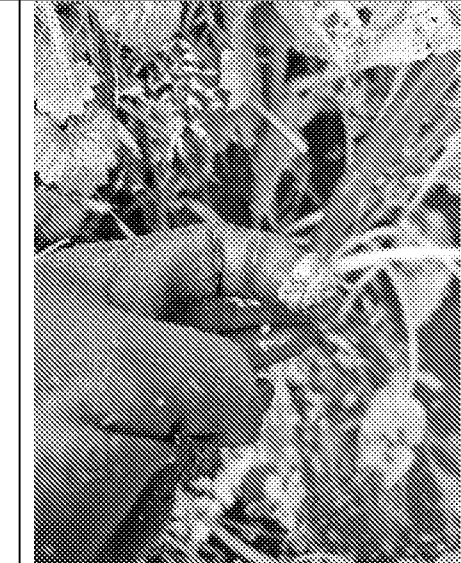
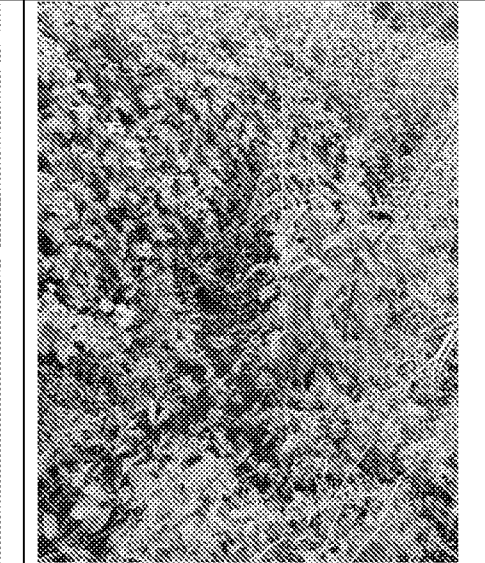
Sarah Hughes

10 Photographic Evidence

1. Stream – looking north towards Eastergate CE Primary School	2. Stream – from the footbridge, looking south	3. English oak tree, supports 2,300 wildlife species, key species Bats
		

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4. ditch junction – looking south	5. Looking south towards railway	6. Ditch looking south
		
7. Water vole burrow (under water)	8. Water vole feeding evidence - distinctive 45° cut	9. Water vole burrow (above water)
		
10. Water vole pathway	11. Water vole burrow	12. Water vole feeding station
		

13. Ideal water vole habitat, steep banks & lush marginal vegetation	14. Water vole burrow	15. Water vole burrow
		
16. Water vole burrow	17. Water vole burrow	18. Water vole latrine (droppings)
		
19. Water vole latrine (droppings)	20. Water vole dropping	21. Lush riparian margins
		

N.B water vole evidence has been submitted to iRecord

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11 Botanical list

No.	Latin name	Common name	Additional
1.	<i>Calystegia sepium</i>	Hedge bindweed	Hedge Bindweed attracts pollinators. Bees, Butterflies (Gatekeeper/Hedge Brown) and Hoverflies are attracted to the flowers, which are said to remain open all night and be pollinated by night-flying moths.
2.	<i>Carex pendula</i>	Pendulous sedge	It provides habitat and food for a variety of wildlife species, and its deep root system can help to create a healthy soil ecosystem.
3.	<i>Cirsium arvense</i>	Creeping thistle	Seeds are an important food source for a variety of farmland birds.
4.	<i>Cirsium vulgare</i>	Spear thistle	Spear thistle are attractive to birds like goldfinches and the flowers are a nectar source for butterflies like the small copper.
5.	<i>Dactylis glomerata</i>	Cocksfoot	Food sources for caterpillars like the gatekeeper and meadow brown; while the seeds are eaten by finches and gamebirds Pollen sources for pollinators such as honeybees which will favour cocksfoot pollen over that of many wild flowers
6.	<i>Epilobium hirsutum</i>	Great willowherb	Its nectar-rich flowers provide a vital food source for bees, butterflies, and other pollinators, while its seeds are an important food source for birds such as goldfinches and buntings.
7.	<i>Galium aparine</i>	Cleavers	A valuable wildlife plant for many insects.
8.	<i>Galium verum</i>	Lady's bedstraw	Attracts butterflies, bees and hawk moths, particularly the Hummingbird Hawk moth, Small Elephant Hawk moth and the Gallium Carpet, Plain Wave, Oblique Striped, Riband Wave, Bedstraw hawk moth, Archer's Dart and Red Chestnut moths.
9.	<i>Geranium robertianum</i>	Herb-robert	A foodplant and nectar-source for many invertebrates including bees, hoverflies and the barred carpet moth.
10.	<i>Hedera helix</i>	Ivy	Nectar, pollen and berries of ivy are an essential food source for insects and birds, especially during autumn and winter when little else is about. It also provides shelter for insects, birds, bats and other small mammals. The high fat content of the berries is a nutritious food resource for birds and the berries are eaten by a range of species including thrushes, blackcaps, woodpigeons and blackbirds. Ivy is particularly important to many insects before they go into hibernation. Some of the main insect species which forage on the nectar and pollen of ivy are bees, hoverflies and common wasps.
11.	<i>Helminthotheca echioides</i>	Bristly Oxtongue	Supplies rich source of food for pollinators including bees and hoverflies.

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No.	Latin name	Common name	Additional
12.	<i>Heracleum sphondylium</i>	Hogweed	Food source for many insects.
13.	<i>Lolium perenne</i>	Perennial rye-grass	Used since the early 17th century as a forage crop for livestock.
14.	<i>Mentha aquatica</i>	Water mint	Attract butterflies such as the small tortoiseshell and peacock, as well as being the food source of the green tortoise beetle (<i>Cassida viridis</i>).
15.	<i>Oenanthe crocata</i>	Hemlock water dropwort	A rich source of food for hoverflies and other insects. An important plant for water voles for a food source and for burrowing behind the rhizomes.
16.	<i>Plantago major</i>	Greater plantain	Attracts pollinators. Birds eat the seeds, which are high in oil.
17.	<i>Rubus fruticosus</i>	Bramble	Bramble flowers are a food source for honey bees and bumblebees and other wild animals. Leaves are eaten by certain caterpillars as well as some grazing mammals, especially deer. Ripe berries are eaten and their seeds dispersed by several mammals such as fox and badger, and small birds. Bramble is also a habitat for some animals, including grass snakes.
18.	<i>Scrophularia auriculata</i>	Water figwort	Is excellent for wildlife, providing nectar for Bumble bees, bees, butterflies and pollinated by the common wasp.
19.	<i>Smyrniololus atratum</i>	Alexanders	Loved by bees and birds, it not only enhances pollination but also supports local wildlife.
20.	<i>Solanum dulcamara</i>	Bittersweet	The berries are eaten by some birds and mammals. The flowers are attractive to bumblebees. The plant provides shelter and nesting for wildlife.
21.	<i>Taraxacum officinale</i>	Common dandelion	Dandelions are an important early source of food for pollinators
22.	<i>Urtica dioica</i>	Stinging nettle	The common nettle is one of the most important native plants for wildlife in the UK and supports over 40 species of insect. Its seed and colonising aphids also provides an essential source of food for our birds and our ladybirds.

11 References

Local Wildlife Sites <https://www.wildlifetrusts.org/local-wildlife-sites>

Local Nature Reserve <https://data.gov.uk/dataset/acdf4a9e-a115-41fb-bbe9-603c819aa717/local-nature-reserves-england>

Sussex Nature Partnership – Biodiversity Opportunity Areas - <https://sussexlnp.org.uk/boa/>

The West Sussex Landscape Character Guidelines - https://www.westsussex.gov.uk/media/1759/lds_southcoastplain.pdf

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(Accessed March 2024)

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(Accessed March 2024)

End.

Gray's Ecology
22, Church Road, East Wittering
Chichester,
West Sussex PO20 8PS

Marie Singleton
Parish Clerk
Aldingbourne Parish Council
C/O Aldingbourne Community Sports Centre
Olivers Meadow
Westergate
Chichester
West Sussex PO20 3YA

FAO Councillor K Jarman

27 March 2024

Our reference. APC/Ecol/270324

Dear Ms Singleton,

Re: Planning Application Ref. AL/11/24/OUT – Land East of Westergate

As requested, I have addressed some of the concerns raised in regard to the ecological evidence and mitigation for the planning application cited above, within my comments below.

Introduction

The proposed site has been widely used for recreational purposes by members of the public for many years and is known to be rich in local wildlife. It forms part of an important wildlife corridor that serves to connect the Coastal Plain in the south to the South Downs National Park in the north.

An Ecological Impact Assessment (EcIA), Environmental Statement and Shadow Habitats Regulation Assessment (HRA) have all been provided by EcoSupport Ltd, to identify ecological factors, evaluate potential ecological impacts and make appropriate recommendations for mitigation and ecological enhancements for the proposed development site. However, I have scrutinized these documents and I find that the survey methods conducted for both bats and water voles have not complied with best-practice guidance. Consequently, the subsequent

recommendations are considered to be insufficient to satisfy all of the relevant legal and planning policy obligations that are required.

Bats

Current Level of Assessment

The supplied Shadow HRA asserts in Table 2 of the SCREENING ASSESSMENT that *"The boundary habitats on site provide foraging and commuting resources for common, rarer and rarest species of bat, and bats associated with Singleton and Cocking Tunnels SAC. The development will result in the loss of some hedgerows on-site, and, if unmitigated, potential impacts through root compaction and damage to retained trees/tree lines on commuting routes. Additionally, the development will result in the permanent loss of bat foraging habitat in the form of the grassland and a small area of wet woodland (in which a Bechstein's Bat was trapped during Harp trapping surveys). Therefore, it is considered the development will result in a likely significant adverse effect to Annex 1 [read Annex 2] species within the SAC."* It should also be noted that a number of trees are to be removed from the site and although these trees are not confirmed to have significant bat roost potential, they do still form part of the foraging and commuting habitat used by bats within the site.

Table 2 of the SCREENING ASSESSMENT goes on to state that *"...individual Barbastelles were identified commuting across the site during static surveys completed between April-August 2023, and one lactating female was found during the trapping surveys. One Bechstein's Bat was identified shortly after sunset within the wet woodland. Day roosting preferences for Bechstein's bat include woodpecker holes and crevices within Crack Willow (Salix fragilis) which is present within the wet woodland on-site. This bat was originally tagged in Binsted (over 5km away) indicating that this individual was likely roosting on-site or very close by. Despite this, trees with at least moderate potential for roosting bats are being retained in the woodland as part of the proposals. One tree with low potential for roosting bats is proposed for removal within the wet woodland."* *"As mentioned above, both Barbastelle and Bechstein's bat were recorded as commuting across site between April-August 2023. Both bat species are known to generally avoid street lights compared to other bat species such as Pipistrellus spp., Nyctalus spp. and Serotine (Eptesicus serotinus). As such, these bat species which are light sensitive are at "a competitive disadvantage and are less able to forage successfully and efficiently. This can have a significant impact upon fitness and breeding success."* (ILP and BCT, 2018). *As the proposals involve increased artificial lighting in the form of street lights, light spill from new dwellings and security lighting, some loss of suitable bat foraging and commuting habitat will be disturbed during the operational phase of the development., in the absence of mitigation this would likely have a moderate adverse significant effect upon the bat species associated with the SAC."*

Table 4 of the SCREENING ASSESSMENT states that *“Whilst likely significant effects, or uncertainty over likely significant effects has already been identified for the proposed development alone, it should be noted that the following pathways may also result in likely significant effects in combination with other plans or projects:*

- *Damage or deterioration of supporting habitats, outside European site*
- *Development associated with the wider WEB strategic allocation includes 6 total applications for extensive*
- *development including the land north of Eastergate and north-west of Barnham single carriageway*
- *(WSCC/052/20), land north of Barnham Road and east of Fontwell Avenue hybrid application for 551 dwellings*
- *(BN/195/22/PL), Woodgate Centre (AL/107/21/PL) for 180 dwellings which all also fall within the 12km Zol for Singleton and Cocking Tunnels SAC.*

“Development associated with the above applications has the potential to further directly impact suitable foraging and commuting habitat/routes for qualifying bat species associated with the SAC. The approved planning applications have already outlined mitigation for these potential impacts through the provision of new habitat creation measures (native hedgerows/trees/scrub/wildflower meadow). Application WSCC/052/20 includes a sensitive lighting strategy for bats, however, to-date mitigation for Barbastelles and Bechstein’s Bat are to be agreed for application BN/195/22/PL. Therefore, an adverse effect is likely in combination.”

Whilst mitigation has been proposed in the form of tree protection, careful lighting and the installation of bat boxes, no attempt has been made to consider the pre-development replacement of foraging and commuting habitat within the site – Section 7.7.7. of the Environmental Statement states that *“the development will result in the loss of 1.05 km of hedgerow/tree lines on site).”* A Biodiversity Net Gain Report does not appear to be available.

Appropriate Survey Methods

It was noted from the lclA that Bechstein’s and Barbastelle bats were captured on site during two trapping sessions undertaken within the site (although the full results of the trapping surveys were not provided). Surveys were reported to have followed best practice according to Collins, 2016¹. Section 9.1 of the Guidance states that Advance Licence Bat Survey Techniques (ALBST) should

¹ Collins, J. (ed) (2016). *Bat Surveys for Professional Ecologists. Good Practice Guidelines (3rd edition)*. Bat Conservation Trust, London. [superceded]

be appropriate for high impact developments at a landscape scale affecting rare bat species, for example, Annex II species (such as Bechstein's and/or barbastelle) or features of SSSIs. Bechstein's bat is very difficult to identify without handling or DNA sampling obtained from guano and therefore, they tend to be under recorded. Collins, 2016, Box 5, p.66 recommends ALBST as an appropriate method for this species, **with a minimum of six trapping sessions to be undertaken** across the active season. Collins, 2016 has since been superseded and has been replaced by Collins 2023². However, Box 9.4, p.88 of this latest Guidance repeats the same advice given in the earlier edition and Section 9.2.34 of Collins, 2023 asserts that ***"Where sites are located within the known distribution of Bechstein's bat and suitable habitat for this species is likely to be impacted, then species-specific surveys are likely to be required. Mist nets and/or harp traps used with a lure emitting Bechstein's bat social calls is the recommended method of surveying for this species as these bats use quiet echolocation and, even when detected using bat detectors, they are very difficult/sometimes impossible to distinguish from other Myotis bat species."***

A walkover survey was carried out during January, which is a sub-optimal time of year to assess the quality of habitat within the site. A botanical survey and an invertebrate survey were not conducted at all. It is clear that these would have helped to understand the importance of the foraging habitat for bats and to inform the mitigation requirements.

Relevant Legislation and Guidance for bats

Par. 99 of the ODPM Circular 2005 highlights that: *"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. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."*

All British bat species are defined in UK law as 'Protected Species' under Schedule 2 of the Conservation of Habitats and Species Regulations (Habitats Regulations) 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

² Collins, J. (ed.) (2023). *Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th edition)*. Bat Conservation Trust, London. Available online at: <https://cdn.bats.org.uk/uploads/pdf/Resources/For-professionals/Bat-Survey-Guidelines-23-FINAL-NO-PRINT-10.10.23.pdf?v=1696325348>.

The Habitats Regulations place a duty upon the Competent Authority (under Regulation (63)) to exercise its duty in appropriately assessing the potential impacts of planned developments upon the 'National Site Network' of protected sites (formerly European Natura 2000 sites, which includes SAC sites) through the implementation of a 'Habitats Regulations Assessment' (HRA). to test if a plan or project proposal could significantly harm the designated features of a site. A plan or project will only pass the required integrity test if the HRA can show that there is no reasonable scientific doubt that the proposal will not have an adverse effect on the integrity of the site.

Certain wild animals (including bats) are also entitled to protection from disturbance under Regulation 43 (1)(b) of the Habitats Regulations. Regulation 43 (2) states that *"For the purposes of paragraph (1)(b), disturbance of animals includes in particular any 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."*

Therefore, as the loss or damage of habitats, which are important for foraging and commuting bats, may result in roosts being abandoned and bats not being able to forage, it can be concluded therefore, that the Habitat Regulations affords protection to bat foraging and commuting habitats.

Sufficient information is required to provide the LPA with certainty of impacts on legally protected and Priority species and enable it to demonstrate compliance with its statutory duties under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. Seven UK bat species are listed under Section 41 (S41) of the NERC Act. These include barbastelle, Bechstein's, which have both been recorded within the Site.

The NERC Act supports Outcome 3 of the Government's Biodiversity 2020 strategy, which contains an ambition to ensure that *"By 2020, we will see an overall improvement in the status of our wildlife and will have prevented further human- induced extinctions of known threatened species."*

Subsection (5), clause 89 of The Environment Act 2021 (EA), requires that public authorities consider any relevant Local Nature Recovery Strategies (LNRS) as part of their strategic assessment of their functions, establishing the relationship between the two measures. LNRS map existing important areas for nature and show the opportunities that exist in an area to recover and enhance nature. LNRSs will support public authorities in deciding the most appropriate and effective action to take to further the biodiversity objective under new section 40(1A) of the NERC Act, and in turn subsection (5) will support the implementation of LNRS.

All bat species in England are also listed under Schedule 5 of the Wildlife and Countryside Act (WCA) 1981 (as amended), which confers additional protection under Section 9 of the act and

through the Countryside and Rights of Way (CROW) Act, 2000. This combined legislation means that it is a criminal offence to:

- deliberately capture, injure or kill a bat
- intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats
- damage or destroy a bat resting place or roost (even if bats are not occupying the roost at the time)
- possess, advertise, sell or exchange a bat (dead or alive) or any part of a bat, or to transport a bat or any part of a bat for this purpose
- intentionally or recklessly obstruct access to a bat roost.

The UK is a signatory to “*The Agreement on the Conservation of Populations of European Bats*,” or “*EUROBATS*,” which came into force in 1994 (and was signed by the UK Government in 1996), under the auspices of the “*Convention on the Conservation of Migratory Species of Wild Animals*” – more widely known as “*The Bonn Convention 1991*.” Under the Bonn Convention 1991, the UK is required to identify and provide protection from damage or disturbance to important feeding areas for bats. Under the agreement, a bat roost is “*any structure or place which any bat uses for shelter or protection*”. Bats tend to regularly reuse the same roosts. Therefore, legal opinion is that the protection of bat roosts is required regardless of whether bats are present or not – there is currently no guidance on when a roost ceases to be protected if it is not used by bats.

The Sussex Bat SAC Protocol (2015) (SBSP) has been produced by Natural England and the South Downs National Park authority. It sets out how to assess planning applications for impact on the bat species for which the Singleton and Cocking Tunnels SAC is designated. Barbastelle and Bechstein’s bats are both designated as qualifying features of the site. The provisions set out within the SBSP include a 12km wider conservation area, which extends into part of the site area.

The Singleton and Cocking Tunnels SAC is primarily a hibernation roost from which bats disperse in spring across a wide area, forming maternity roosts that in turn have commuting flight lines and foraging areas linked to them. All of these dispersal areas are defined in the SBSP as ‘functionally linked habitat’, which is necessary to maintain the favourable conservation status of the Qualifying Feature species for which the SAC was designated.

SBPS p.5 states that “*Bats roosting within the SACs rely on land outside of the site boundaries. Such land which is required to sustain the bats associated with the SACs is referred to as being ‘functionally linked’ to the SAC. Where impacts to such functionally linked land could result in significant effects to the bat populations associated with the SAC, full consideration needs to be undertaken under the Habitats Regulations (in the same way as habitat in the SAC).*” SBPS p.4 sets out a 6.5km key conservation area and a 12km wider conservation area. It should be noted that in the case of Singleton and Cocking Tunnels SAC, some known maternity roosts linked to the SAC (Slindon and Lodsworth) lie in the wider (6.5 to 12km) area. For the Singleton and Cocking Tunnels SAC only a few ‘linked’ roosts have been identified to date and the wider use of the landscape by

bats from this SAC is not well understood (SBPS p.3). The 12km zone has therefore greater significance for the required precautionary approach in managing potential impacts on the qualifying species of this site.

The 'European Site Conservation Objectives for Singleton and Cocking Tunnels Special Area of Conservation Site code: UK0030337' (ESCO) (CD12.17) and 'European Site Conservation Objectives: Supplementary advice on conserving and restoring site features Singleton and Cocking Tunnels Special Area of Conservation (SAC) Site Code: UK0030337' (ESCOSA), describes the Singleton and Cocking Tunnels SAC as one of the most important sites for hibernating bats in south-east England. According to ESCOSA, p.4 ***"The barbastelle is one of the UK's rarest mammals. Very few breeding sites are currently known in the UK and it is important that surrounding environments of these and winter hibernation sites are maintained. It is thought that they prefer pastoral landscapes with deciduous woodland, wet meadows and water bodies, such as woodland streams and rivers. ...It is one of the rarest bats in western Europe. Barbastelles appear to select cracks and crevices in wood for breeding, mostly in old or damaged trees, but cracks and crevices in the timbers of old buildings may also be used. Maternity colonies may move between suitable crevices within a small area, such as a piece of woodland or a complex of buildings."*** It is not uncommon for maternity colonies of barbastelle bat to move frequently (within 1-3 days) between suitable crevices within a small area, such as a piece of woodland or a complex of buildings (ESCOSA, p.4). It is notable that barbastelle bats are rare throughout Europe. In the UK they are confined to southern England and Wales only (ESCOSA, p.4). Their population status is currently unknown (Mathews F., Coomer F., Wright J. and Kendall T. (2018). *Britain's Mammals 2018: The Mammal Society's Guide to their Population and Conservation Status*. The Mammal Society, London p.88).

Natural England Protected Species standing advice on bats (version of 14 January 2022) states that to inform the planning proposal so it can avoid harming bats as much as possible, **surveys must: "...identify important flight routes and foraging areas used by bats close to proposed developments" and "The effect of a proposal on a bat population will need to consider the predicted level of impact based on the conservation status of the bat species affected" and "importance of the site for bats at a local and national level. For example, Bechstein's bat is rare and found in the UK only in southern England and south-east Wales, therefore proposals in these areas could be very significant to the national population of this species."**

Both Barbastelle and Bechstein's bat are listed as a 'Qualifying Feature' of the Singleton and Cocking Tunnels (SCT) Special Area of Conservation (SAC).

Water Voles

Water voles are protected under the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally:

- kill, injure or take them
- possess or control them (alive or dead)

It is also an offence to intentionally or recklessly:

- damage or destroy a structure or place used for shelter or protection
- disturb them in a place used for shelter or protection
- obstruct access to a place used for shelter or protection

Water voles are also listed as rare and most threatened species under Section 41 of the Natural Environment and Rural Communities Act (2006).

The EclA claims to have ruled out the presence of water vole *Arvicola amphibius* within the site. However, independent surveys for water vole, detailed within reports by Hughes, S. (2024). Water Vole Survey 20/06/2023. Arun and Rother Rivers Trust. Petworth and Gray's Ecology in March 2024 both found compelling evidence of water vole presence within the site. This brings into question the findings of the water vole survey carried out by EcoSupport Ltd. Best practice Guidance, Dean et al., 2016³ para. 3.3.10 "...two visits should be undertaken in most cases: one in the first half of the season (mid-April to the end of June) and one in the second half of the season (July to September inclusive) [Although in the south-east of England these can commence from mid-March]."

Water vole have been identified within the Lidsey Rife. The proposed development plans to place a link road across the Rife. Construction of this feature will require mitigation for disturbance to water vole and potential loss of habitat. Mitigation will need to consider this along with ongoing disturbance from increased recreational pressures, disturbance from lighting, increased predation from domestic cats, dogs, rats etc. and potential pollution of the water course. Any displacement strategy must consider the mobility and density of the wider water vole population. The culvert beneath the railway line to the south of the site will present a barrier to dispersal, as will the polluted section of the rife to the north of the culvert. The developer must take appropriate measures to avoid any negative effects on water voles in their development proposal.

³ Dean, M., Strachan, R., Gow, D. and Andrews, R. (2016). *The Water Vole Mitigation Handbook (The Mammal Society Mitigation Guidance Series)*. Eds Fiona Mathew and Paul Chanin. The Mammal Society, London.

Conclusion

Insufficient survey effort has been carried out to understand the potential impact upon Bechstein's and barbastelle bats within the site. The application lacks properly informed detailed mitigation to adequately account for the loss of trees, hedges and grassland foraging and commuting habitat present within the site. In my professional opinion, when taking account of the potential impact upon the Qualifying Species of the Singleton and Cocking Tunnels SAC, it is not possible to determine that a significant impact upon the SAC site would be avoided.

Further water vole survey is required to determine the population density and to identify impact areas. A comprehensive mitigation and enhancement plan for water vole will be required to avoid a negative impact on water vole within the site and the wider area.

Qualifications

My name is Nick Gray. I am an Independent Ecologist. I hold a BSc (Hons) degree in Natural Sciences with Biology and I am an Associate member of the Chartered Institute for Ecology and Environmental Management (ACIEM). I am registered to hold Natural England protected species survey licenses for bats, hazel dormouse *Muscardinus avellanarius* and great crested newt *Triturus cristatus*. I have considerable experience as a consultant ecologist, surveying and monitoring habitats and species for both development proposals and for conservation. I have been the Named Ecologist on numerous Natural England Protected Species Mitigation Licences for bats. On several occasions, I have provided my services at the request of a Local Authority to act as an 'Expert Witness' at Public Enquiry hearings for ecological matters concerning planning and development. I am a member of the Sussex Bat Group (SxBG) Committee and act as the SxBG coordinator and team leader for the National Bat Monitoring Programme (Winter Hibernation Counts) at several important bat hibernation roost sites across West Sussex. Some of these sites are part of the UK National Site Network and they include the nationally important SCT SAC. I have previously provided expert advice on bats found within the SCT SAC to a number of wildlife conservation organisations, ecological consultancies, Natural England, Local Authorities and a variety of media organisations (the latter has required me to appear several times on national and local television, specifically to show and discuss the bats using the West Dean, Singleton and Cocking Tunnels).

I have conducted numerous bat surveys within the Westergate area over several years and acquired a comprehensive understanding of bat activity within the Chichester and Arun Coastal

Plain area (including areas close to and within the proposed development site) on behalf of Local Authorities, Parish Councils and non-government organisations, with a particular focus on identifying wildlife corridors linking the areas of the Coastal Plain to the South Downs National Park, to help evaluate the importance of these as wildlife corridors for bats and other wildlife.

I confirm that the opinions expressed are my true and professional opinions.