



Town and Country Planning Act 1999 (As Amended) Section 77 and Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Application: For the outline application for the proposed erection of up to 99 no. Dwellings, green infrastructure, open space, pedestrian and cycle links, recreational facilities and other associated infrastructure and access points on lodge road and tape lane with required improvements. (all matters reserved except for means of access.)

Site: Land Between Lodge Road and Tape Road, Hurst RG10 0EG

Appellant: Mactaggart and Mickel Strategic Land

**Proof of Evidence by Lesley Sproat
on behalf of the Environment Agency**

PINs Reference: APP/X0360/W/25/3364304

LPA Reference: 242067

Environment Agency Reference: WA/2024/131683/01-L01

Date: 29 July 2025

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1 Personal Details and Scope of Evidence

- 1.1 My name is Lesley Sproat. I have 33 years of experience working within the Environment Agency and its predecessor body, the National Rivers Authority. I have a BSc in Ecology and a MSc in Landscape Ecology, Design and Maintenance. I am a Member of the Chartered Institute of Ecology and Environmental Management.
- 1.2 I am a Biodiversity Officer working within the Fisheries, Biodiversity and Geomorphology team in the Thames Area. My area of responsibility includes the River Thames (Reading to Bourne End), Pang & Sulham Brook and River Wye catchments, however as part of a wider biodiversity team I cover issues in other catchments as required depending on workloads.
- 1.3 Part of my role consists of reviewing planning applications, local development plans and strategic plans with a view to advising Local Planning Authorities on ecology and biodiversity matters. I am also consulted internally on applications for a range of environmental permits for works affecting rivers and the water environment that are submitted to the Environment Agency.
- 1.4 The evidence which I have prepared and provide in this Proof of Evidence for this appeal (Ref. APP/X0360/W/25/3364304) is true and has been prepared, and is given, in accordance with the guidance of the Environment Agency. I confirm that the opinions expressed are my true and professional opinions.
- 1.5 I will be dealing with the ecology and biodiversity issues associated with the development as related to watercourses. I was appointed as the EA Biodiversity Officer to provide ecological advice relating to this site on the 19th May 2025 which was shortly after Wokingham Borough Council notified the Environment Agency of this appeal.

2 Environment Agency's Planning and Ecology role

- 2.1 The Environment Agency is a non-departmental public body created by the Environment Act 1995¹. Its principal functions are set down in that Act. By virtue of the Schedule 5 to the Town and Country Planning (Development Management Procedure) (England) Order 2010 ('DMPO'), The Environment Agency is a statutory consultee in respect of proposed development which is to be carried out on land in or within 20 metres of the top of a Main River as notified by the Environment Agency. Therefore, we will normally be consulted by local planning authorities for advice on development proposals which include new culverting or built development on top of existing culverts.
- 2.2 In accordance with the Environment Agency inhouse maps of the watercourse systems,(see Appendix EA01) there is a main river (Hatchgate Ditches) which runs through part of the Western portion of the site. My comments in this Proof of Evidence therefore relate to ecological matters particularly in relation to impacts on the main river which is within the Environment Agency's remit.

3 Site Description and Constraints

- 3.1 The appeal site is at Land Between Lodge Road and Tape Road, Hurst RG10 0EG.
- 3.2 The main river here (Hatchgate Ditches) runs within the Western boundary of the site, with a 90-metre-long section of this watercourse currently running south to north within a culvert.
- 3.3 The open section of this watercourse does have some inherent biodiversity value and provides connectivity with neighbouring habitats, a point acknowledged in Table 2.2 of the Ecological Impact Assessment report submitted with the planning application. (see Appendix EA02) The culverted section currently interrupts this connectivity.

4 Background to Environment Agency Involvement

- 4.1 We were previously consulted on an application at this site in 2022. The application was for approximately 200 homes; we objected to the application due to a lack of an ecological assessment (see our previous planning response in Appendix EA03).
- 4.2 We were consulted on the current application (Planning reference LPA Reference: 242067) which is the subject of this appeal in August 2024, it is for “up to 99 dwellings”. We objected to this application due to a lack of detail regarding works in the vicinity of the Hatchgate ditches and over the culverted portion of it. (See our planning response in Appendix EA04). We advised the applicant that they could overcome our objection by deculverting the Hatchgate ditches for the portion within the site to reinstate an open watercourse and provide details of a river crossing (with a preference for a clear span bridge) for the proposed access road.
- 4.3 We understand the planning application for this proposal was refused. Reasons 5, 6 and 7 are refusal reasons within our remit and we support the LPA’s refusal reasons and decision to refuse the planning application. The applicant appealed against the LPA’s decision to refuse this planning application.
- 4.4 We were notified of this appeal - APP/X0360/W/25/3364304 by Wokingham Borough Council. Upon receipt of the appeal, we engaged with the appellant and concluded that the requirements for deculverting of the main river on the site can be addressed via planning conditions to secure a design for the river crossing and a scheme for the deculverting. These requirements incorporated some flexibility as the culvert routes close to some existing trees. These conditions (currently in section 10 as conditions 1 and 2) were submitted and accepted in principle by the appellant on 12th June 2025 (Appendix EA05 (A)). However, on 11th July 2025 (Appendix EA05 (B)) the appellant sent a message stating that they did not believe the requirement to deculvert was necessary. Further engagement confirmed the appellants position which is not to deculvert that section of the main river. In that regard, we object to the proposed development and write this proof of evidence to support our position and support the LPA’s reason for refusal 5, 6 and 7 as in their decision notice.

5 Relevant Legislation, Policies and Guidance

5.1 I set out below the National and Local Planning policies, Environment Agency Policy and Guidance and relevant Legislation and Directives, which are relevant to the proposed development and provide the context for the Environment Agency's stance on this proposal.

5.2 National Planning Policy Framework (NPPF).
Particular focus on sub-paragraphs a) and d) of paragraph 193 of the National Planning Policy Framework (NPPF)

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

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."*

5.3 Borough Local Plan and other LPA Policies

Particular focus on Wokingham Borough Council's local plan (2014) Policy TB23 Biodiversity and Development part 2 points a and c:

"2. Planning permission for development proposals will only be granted where they comply with policy CP7 – Biodiversity of the Core Strategy and also demonstrate how they:

- a) Provide opportunities, including through design, layout and landscaping to incorporate new biodiversity features or enhance existing*
- c) Ensure that all existing and new developments are ecologically permeable through the protection of existing and the provision of new continuous wildlife corridors, which shall be integrated and linked to the wider green infrastructure network."*

Culvert Policy - Wokingham Borough Council

Particular focus on section 6 – 'Reason for the policy' and subpoints 6.1, 6.2, 6.3 and 6.4.

"6.1 Loss of environmental features

Culverting has a detrimental impact on the environment, resulting in a loss of features within a watercourse. The continuity of the river corridor is broken, adversely affecting the landscape and ecological value of the watercourse for migrating species. An existing or potential amenity would also be lost for present and future generations.

6.2 Increased likelihood of blockages and flooding

Compared with an open channel there is an increased risk of blockage once a culvert is installed. If the blockage occurs within the culvert, there is much greater difficulty in removing it. It is sometimes argued that culverting will reduce the problem of open channels subject to litter and fly-tipping. Such short-term advantages are outweighed by the overall disadvantages, and alternative means should be pursued to address rubbish problems. Flooding is more likely to result from culverts when they become obstructed, and culverted

channels also provide less flood storage than open ones. There have also been cases of serious flooding caused by culverts collapsing due to root damage from vegetation or the weight of development above them. Culverting will create a less permeable bed to a watercourse and often increases the speed of water flow, possibly increasing flood risk downstream and also preventing local recharge of groundwater

6.3 Increased difficulties in providing new drainage connections, and the repair, maintenance and replacement of culverts.

Drain connections are more easily made to open watercourses where the performance of drainage systems can be visually monitored. Outfalls within culverts are prone to blockage or, in the case of flapped outfalls, can seize up. Maintenance of these outfalls is considerably easier in open channels. Culverts conceal the presence of a watercourse and can lead to development or unacceptable land-use above or near them. In many urban areas buildings have been constructed above or adjacent to culverts. This means that improving standards of flood protection or accommodating run-off from future developments could be impossible or uneconomic due to the cost of replacing or enlarging existing culverts. The responsibility for the condition and maintenance of a culvert lies with the landowner or the owner of the culvert unless other agreements are in place. The responsible party must therefore ensure that the culvert remains in good condition and free from obstructions. Failure to do so could result in liability for any damage caused by flooding. Access to culverts is generally safe only with the use of special procedures and equipment, making inspection and maintenance both difficult and costly.

6.4 Pollution and effect on water quality

Culverting a watercourse makes the early detection and tracing of pollution sources more difficult, resulting in the adverse impacts being more serious. There is further impact on water quality due to the loss of the biological processes which are essential for river purification, and there is normally a reduction in oxygenation of water passing through a culvert. Culverting may also result in stagnant water problems, particularly if culvert levels are badly planned or constructed.”

**5.4 Environment Agency guidance
Culverting Watercourses policy**

“We are opposed to the culverting of any watercourse because of the adverse ecological, flood risk, geomorphological, human safety and aesthetic impacts. Watercourses are important linear features of the landscape and should be maintained as continuous corridors to maximise their benefits to society.

We will normally object to proposals to build over existing culverts because of health and safety considerations, increased maintenance costs and complexities and because future options to restore the watercourse may be precluded. We will, where we deem appropriate, take possible cumulative impacts into account when making decisions.

We will actively pursue the restoration of culverted watercourses to open channels”

Culverting Watercourses guidance

“We are unlikely to support planning applications for proposals to build over existing main river culverts because of health and safety considerations, increased maintenance costs and complexities, and because future options to restore the watercourse may be precluded.

Where development proposals present opportunities for the restoration of culverted watercourses to open channels, we will actively pursue this through our statutory consultee role, provided doing so would not increase flood risk elsewhere or cause other unacceptable environmental impacts.

Opening up culverts can also help developers meet wider planning policy objectives such as to achieve environmental and biodiversity net gains and create and strengthen networks of multifunctional green infrastructure.”

6 Key Issues for the Environment Agency

- 6.1 There is a statutory main river (Hatchgate Ditches) running through part of the site close to the Western boundary. We note that the proposed access off Lodge Road would cross over a currently culverted section of a channel that is part of the Hatchgate Ditches and is classed as main river. At the planning

application stage, no details were provided with regards to the proposed access that show how this would interact with the watercourse, and no deculverting was proposed. Also, in the Appellants Statement of Case this issue has still not been addressed. Please see my comments in section 7.

- 6.2 The Hatchgate Ditches are tributaries of the Twyford Brook waterbody (Water Body ID GB106039023190), with the current WFD status being 'Bad'. The Water Environment (Water Framework Directive) Regulations 2017ⁱⁱ, requires water bodies not to deteriorate and to achieve 'Good Status' by 2027. Although the Hatchgate Ditches are not part of the designated waterbody, the condition and ecological quality of all tributaries can impact on the designated reaches.
- 6.3 To overcome these concerns, it is necessary for the appellant to remove the culvert and re-instate an open watercourse. As this watercourse would require to be crossed by any access road, this could be done with a bridge designed to allow the unobstructed flow of water and passage of wildlife beneath it. While a community orchard is currently proposed in this area, the layout of planting here should be realigned to accommodate an open channel.
- 6.4 I have provided further details in section 8 below.

7 The Appellant's Case

- 7.1 The following is to be noted from the Appellant's Statement of Case prepared by Planning Potential Limited. The Appellant has provided details to address refusal reasons 5, 6 and 7 as in the LPA decision notice dated 29 November 2024 and listed below.

5. In the absence of a satisfactory Flood Risk Assessment and the Environment Agency objection, the proposed development has failed to demonstrate it would have an acceptable flooding and drainage impact contrary to Core Strategy policy CP1 and CP3, MDD Local Plan Policy CC09 and CC10 and Section 14 of the NPPF.

6. By virtue of a lack of accurate information, an assessment date for baseline biodiversity value cannot be agreed. Therefore an assessment of how 10 percent biodiversity net gain will be achieved is not possible and as such, if granted planning permission, there is no guarantee if 10 percent biodiversity net gain will be achieved, hence would be contrary to Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

7. The application has failed to demonstrate the proposed development will have an acceptable impact on ecology and biodiversity by reason of the impact on protected species, wildlife and habitats, contrary to policy CP1, CP3 and CP7 of the Core Strategy, CC01 and TB23 of the MDD Local Plan and section 15 of the NPPF

- 7.2 Paragraph 8.12 of the Appellant's Statement of Case (responding to Reason for Refusal 5 (Flood Risk)) refers, in the last bullet point, to a new crossing stating that it "will be explicitly modelled. It is anticipated that this will be a box culvert construction with appropriate design criteria to ensure passage of water and animals is appropriately mitigated." This would suggest a new

crossing on an open channel, although no explicit reference is made here to deculverting of the watercourse.

- 7.3 The Appellant has responded to refusal reasons 6 and 7, but as the wording of these reasons does not make specific reference to our ecological objection, they have not addressed our objection specifically and do not make reference to any watercourses or deculverting.

8 The Environment Agency's Case

- 8.1 In our response to the planning application (Appendix EA04), we objected to the proposed development due to lack of details as to how the proposed access road would cross the section of the Hatchgate Ditches that is currently culverted, amounting to approximately 90 metres in length. No details have also been provided with regards to how the proposed access would interact with the watercourse.
- 8.2 The development as proposed would have an impact on nature conservation, physical habitats and the main river which is a tributary of the Twyford Brook. The proposed access road crossing and the current outline landscape proposals for this area of the site would prevent the ability to deculvert a section of this watercourse and fail to reverse the loss of open watercourse habitat as a result of previous culverting.
- 8.3 As highlighted in section 5, national and local policies require that developments conserve and enhance the environment by minimising impacts on biodiversity. National and local policy also emphasise that if significant harm resulting from a development cannot be avoided, adequately mitigated, or compensated for then the proposal should not be granted, planning permission.
- 8.4 We note that the Ecological Impact Assessment – (see Appendix EA02) submitted with the planning application referred to enhancement of the watercourses/ditches and that this is included within the Biodiversity Metric, however it is unclear what this proposed enhancement consists of or where it would take place due to a lack of narrative. Plans provided within the Ecological Impact Assessment (Waterbodies Plan (drawing no. 16452/P04 see Appendix EA02) and Habitat Features and Ground Level Tree Assessment Plan (drawing no. 16452/P03 see appendix EA02, Plan 1) do not appear to show or acknowledge the culverted section of the Hatchgate Ditches.
- 8.5 The Ecological Impact Assessment report has been revised (Version b), uploaded to the LPA website on 03/12/2024. The two drawings listed above have not been updated. An additional plan titled Modular River Physical Survey Plan (drawing no. 16452/P10) has been included which shows the location of the MoRPh5 locations, but once again, the culverted section of the Hatchgate Ditches is not indicated or referenced.
- 8.6 In a document listed on the LPA website as 'Applicant response to WBC Ecology', uploaded on 03/12/2024 see Appendix EA06, the WBC Ecologist had written:

“On-site Watercourse Baseline

Table 2.2 of the EclA identifies that the watercourse D1 (which is considered main river by the Environment Agency) flows into a culvert at the northern point of TL1. This culvert is not mapped or included in the baseline metric. Please can it be added as culvert is still a scoring feature.”

The Appellant has responded saying that:

“The culvert may have been present historically, but during the Modular River Physical Survey this was blocked and there is no evidence of the culvert existing or functioning in this location.”

- 8.7 Document CD5.4: Ecology Evidence of Miss Emily Major, Appendix 2: Ecology Technical Note (16452_R04a_MJ) (Tyler Grange, June 2025) (see Appendix EA07) states under ‘On-site Watercourse Baseline’ in relation to the culvert in paragraph 2.57 that *“Hatchgate Ditches...ends in a blocked culvert at its northernmost point. As the culvert is blocked with no evidence of its continued function, the culvert was not mapped as a habitat as part of the baseline of the watercourse BNG assessment.”* This appears to indicate that the culverted section of the Hatchgate Ditches has not been assessed fully.
- 8.8 Ultimately, it is for the Local Planning Authority to determine if the assessments relating to Biodiversity Net Gain (BNG) are sufficient and the requirements can be met. BNG assessments were referred to on pages 40 and 41 of Wokingham Borough Council’s Delegated Officer Report for this application and, although not expressly included in the wording of refusal reasons 6 and 7, do provide background as part of these reasons.
- 8.9 Culverts usually remove or alter river and bank side habitat and may interrupt a wildlife corridor, acting as a barrier to the movement of wildlife. We therefore seek the removal of existing culverts wherever possible to meet the requirements of River Basin Management Plans (RBMP) and ultimately The Water Environment Regulations. We assess impacts to the natural environment in line with the Water Resources Act 1991ⁱⁱⁱ, the Land Drainage Act 1991^{iv}, the Environment Act 1995, the Wildlife and Countryside Act 1981^v (as amended), the Natural Environment and Rural Communities Act 2006^{vi}, Water Framework Directive (WFD)^{vii} and The Habitat Regulations 2017^{viii}.
- 8.10 Paragraph 41 of The Habitat Regulations specifically recognises rivers and their banks as essential for the migration, dispersal and genetic exchange of wild species, and the existing culvert disrupts this linear habitat.
- 8.11 Further support for deculverting is given by the Environment Agency’s Culverting Watercourse Policy, Culverting Watercourses Guidance and Wokingham Borough Council’s Culverting Guidance Notes (see Appendix EA08). We have highlighted these in section 5 above. These emphasise the fact that deculverting the Hatchgate Ditches would provide a measurable biodiversity net gain for the Watercourses, improve connectivity along the channel and enhance its ecological value.

- 8.12 In our planning response, we set out a number of additional concerns; however following post appeal discussions with the Appellants Agents we agree that these could be addressed via planning conditions, as set out below in section 10. The agents have accepted these conditions therefore we have not commented on these in this Proof.

9. Conclusion

- 9.1 The proposed development in its present form does not provide any details with regard to how the access road would interact with the culverted section of the Hatchgate Ditches. This crossing may prevent the reversal of a substantial loss of watercourse habitat resulting from the existing culvert.
- 9.2 Culverts usually remove or alter river and bank side habitat and may interrupt a wildlife corridor, acting as a barrier to the movement of wildlife. We therefore seek the removal of existing culverts wherever possible and the restoration of natural riverbed and banks. This can restore connectivity of the watercourse and its associated riparian corridor and provide habitat for wildlife.
- 9.3 Deculverting this watercourse and creating a more natural channel should enable the Appellant to achieve a significant measurable biodiversity net gain for the watercourse element of the biodiversity metric.
- 9.4 We do not consider the requirements to address our concerns to be onerous for the appellant to deliver. We have drafted suggested conditions (1 and 2 in section 10) for deculverting of the watercourse and for the design of a new access road crossing, included in Section 10, below.
- 9.5 The other suggested conditions in Section 10 would address the remaining concerns as set out in our original response to the planning application.

10. Conditions

- 10.1 If the inspector is minded to allow this appeal, we have recommended the following planning conditions (1 and 2) which should be attached to any planning permission granted for this development without prejudice. Conditions 3 to 5 should be attached to any planning permission granted for this development. These three conditions would be conditions we would normally recommend is attached to any development affecting a watercourse. Please see these in Appendix EA09.

Condition 1

No development shall take place until a scheme for deculverting and re-naturalising the entire length of the Hatchgate Ditches channel that runs north to south through the western portion of the proposed development site has been submitted to, and agreed in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme.

The scheme shall include:

- Plans showing the route of the deculverted channel;
- A long section of the proposed deculverted channel showing the bed gradient along its length and how the opened channel would tie in with bed levels of the existing open channel at the upstream and downstream ends;
- Cross sections through the opened channel showing bank slopes and any marginal shelf areas in relation to the bed level and water level. The banks shall have some variation in terms of slope in order to avoid creating a trapezoidal channel;

Reason 1

We are generally opposed to culverting because it can damage habitats, interrupt wildlife corridors and disrupt river continuity, and consequently actively support and encourage deculverting. By deculverting and re-naturalising the watercourse through the site, river continuity and the wildlife corridor will be improved.

Condition 2

No development shall take place until a scheme for the design of the road crossing over the deculverted channel of the Hatchgate Ditches has been submitted to, and agreed in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme.

The scheme shall include:

- Detailed drawings showing the location of the proposed crossing in relation to the deculverted channel.
- Detailed cross-section and long section drawings of the proposed crossing, showing this in relation to the newly formed channel and its bed and banks, and showing how wildlife would be able to pass along the channel freely.

Clear-span structures with abutments set back from the bank top have the least impact on watercourses and their associated wildlife corridors, while providing the greatest opportunity for maximum retention and enhancement of those features; this should be the starting point for any bridge design.

Reason 2

We are generally opposed to culverting because it can damage habitats, interrupt wildlife corridors and disrupt river continuity. This condition ensures that the design of the crossing over the newly deculverted channel has the least impact on the channel and the wildlife associated with it.

ⁱ An Act by Parliament which It established the Environment Agency as the body responsible for regulation of air quality, water resources, and waste management amongst others in England.

- ii The Water Environment Regulations 2017 (Water Framework Directive) (England and Wales) transpose the Water Framework Directive into UK law. The WFD protects surface waters including rivers, lakes, transitional waters (referred to in this advice as estuarine waters), coastal waters and groundwater.
- iii The Water Resources Act (WRA) governs the quality and quantity of water by outlining the functions of the Environment Agency (previously the National Rivers Authority).
- iv The Land Drainage Act 1991 requires that a watercourse be maintained by its owner in such a condition that the free flow of water is not impeded.
- v An Act to repeal and re-enact with amendments the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975.
- vi An Act to make provision about bodies concerned with the natural environment and rural communities; to make provision in connection with wildlife, sites of special scientific interest, National Parks and the Broads; to amend the law relating to rights of way; to make provision as to the Inland Waterways Amenity Advisory Council; to provide for flexible administrative arrangements in connection with functions relating to the environment and rural affairs and certain other functions; and for connected purposes.
- vii The Water Framework Directive (WFD) is an EU law that aims to protect and improve the water quality of inland and coastal waters, as well as groundwater. River Basin Management Plans (RBMPs) are documents created under the WFD that outline how the water environment within a specific river basin district will be managed to achieve the WFD's objectives. The WFD requires these plans to be updated every six years.
- viii The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) protect hundreds of wildlife sites in England—across millions of hectares of land, freshwater and sea—and over one hundred rare or vulnerable animal, bird and plant species.