

LAND OFF LITTLE GREEN LANE,
CROXLEY GREEN



TOWN AND COUNTRY PLANNING ACT 1990
(as amended)
Section 78 — APPEAL

PINS Ref: 6004972



EXPERT EVIDENCE OF
JULIAN FORBES-LAIRD



ON BEHALF OF THE APPELLANT
IN RELATION TO ARBORICULTURAL MATTERS

Vol. 1— SUMMARY & PROOF

Prepared for: Richborough Estates

FLAC Instruction ref: 46-1009_JFL

Issued: June 2026

Technical Director
Patrick Stileman
BSc(Hons), MICFor, MRICS, RC.Arbor.A, CUEW, Dip.Arb(RFS)

Operations Director
Andrew Colebrook
MICFor, MRICS, M.Arbor.A, Dip.Arb(RFS)

Senior Associate Director
Ben Abbatt
BA(Hons), MICFor, MRICS, CEnv, Dip.Arb(RFS)

The Old Rectory
Park Lane • Blunham
Bedford • MK44 3NJ
T 44 (0)1767 641648
E enquiries@flac.uk.com
www.flac.uk.com

Summary

I am Julian Forbes-Laird, expert witness for the Appellant in relation to arboricultural matters, and I will say:

- i) I have provided advice to the Appellant since February of this year. I have visited the Appeal Site and adjacent areas of ancient woodland a number of times, and by this means I am familiar with the material locality.
- ii) My evidence concerns the irreplaceable habitat type known as ‘ancient woodland’, which is defined in the NPPF as *land wooded continuously since at least 1600AD*.
- iii) My evidence explains the policy and guidance relevant to this Appeal.
- iv) I undertake a review of the position of key stakeholders. Whilst noting that the original Reason for Refusal relating to ancient woodland has been abandoned, I explain why the Council’s residual position is now opaque and difficult to follow.
- v) I set out Natural England’s position, and note that it concludes any harm to ancient woodland arising from the Appeal Scheme is mitigable. The mitigation measures sought by Natural England are either in place, or they can straightforwardly be put in place.
- vi) The Woodland Trust objected to the application at first instance. I will show why this objection is misplaced in some areas, and without merit in others. In particular, I draw attention to the Woodland Trust’s unattractive expectation that the planning system should operate to counterbalance resource prioritisation decisions of its own choosing.
- vii) Overall, I conclude that there are no arboricultural reasons for planning permission to be withheld.

Vol. 1 Proof contents

<i>Page</i>	<i>Section</i>
1	1 Introduction
	1.1 Authorship
	1.2 Instructions
	1.3 Scope and direction of evidence
2	1.4 Proof Structure
3	2 National Planning Policy and Guidance
	2.1 Contextual information
	2.2 Whippendell Wood SSSI
4	2.3 National Planning Policy Framework 2024
6	2.4 National-level guidance
7	3 My response to issues raised by key stakeholders
	3.1 Three Rivers District Council
8	3.2 Natural England
10	3.3 The Woodland Trust
14	4 Conclusions

Statement of truthfulness and professional endorsement

1 Introduction

1.1 Authorship

1.1.1 This Proof of Evidence addresses issues relating to ancient woodland and proposed development. It has been prepared by me, Julian Forbes-Laird, Senior Director of Forbes-Laird Arboricultural Consultancy Ltd (“FLAC”).

1.1.2 I hold the following relevant memberships and qualifications:

- Member of the Institute of Chartered Foresters (that is, I am a Chartered Arboriculturist)
- Member of the Royal Institution of Chartered Surveyors
- Member of the Expert Witness Institute
- Member of the Royal Society of Biology
- Professional Member of the Arboricultural Association
- Member of the Royal Forestry Society and holder of its 'Professional Diploma in Arboriculture'
- Technical editor for BS5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations'
- Chairman of the British Standards Institution technical committee on trees, B/213

1.1.3 Full details of my qualifications and experience may be found at Appendix JFL1.

1.2 Instructions

I am instructed on this occasion by Richborough Estates (“the Appellant”). My instructions arise pursuant to an appeal (PINS’ ref 6004972) against refusal of planning permission by Three Rivers District Council (3RDC) under its ref: 24/2073/OUT.

1.3 Scope and direction of Evidence

1.3.1 The Decision Notice, dated 30 January 2026, included impact on ancient woodland as one of three Reasons for Refusal (Reason 2). Whilst the Council has subsequently confirmed that it will not seek to defend this Reason, its Statement of Case (SofC) maintains harm to ancient woodland as a matter to be weighed in the planning balance (3RDC SofC para. 5.9).

1.3.2 Croxley Green Parish Council is a Rule 6 Party to the Appeal, however it takes no issue on the subject of ancient woodland in its Statement of Case.

1.3.3 Natural England was a statutory consultee on the application, due to the presence near to the Appeal Site of two SSSIs, one of which being material to my evidence, Whippendell Wood, an area of ancient woodland owned by Watford Borough Council (which made no comment on the planning application).

1.3.4 In its consultation response dated 05 February 2025, Natural England advised that, without mitigation, the proposals would *damage or destroy the interest features for which Whippendell Wood had been notified*.

1.3.5 The Woodland Trust was a consultee on the application at first instance. In a consultation response dated 18 February 2025, it objected to the scheme as now appealed, further to which the Appellant submitted additional information relating to ancient woodland. The Woodland Trust reviewed this information, and provided a second consultation response dated 12 November of the same year, in which the objection was maintained.

1.3.6 It follows from the above that the direction of my evidence is to consider whether, and if so to what extent there would be harm to ancient woodland arising from the Appeal Scheme.

1.4 Proof Structure

1.4.1 Following Section 1, my Proof is structured as follows:

2. National Planning Policy and Guidance
3. My response to issues raised by key stakeholders
4. Conclusions

1.4.2 My Proof is supported by the following Appendices (separately bound as Volume 3):

- JFL1** Qualifications & experience of the author
JFL2 Whippendell Wood SSSI citation
JFL3 Correspondence with Natural England

2 National Planning Policy and Guidance

2.1 Contextual information

2.1.1 Although now formally resiled, it is logical to surmise that Reason 2 contains the ingredients of the Council's residual concern. Accordingly, it is considered relevant to set out the issue raised in the Reason:

The proposed development by virtue of intensification of use, would result in the deterioration of ancient woodland within and adjacent to the site. There are no wholly exceptional reasons to justify the deterioration of these irreplaceable habitats and it has not been demonstrated that the impacts can be mitigated.

In relation to ancient woodland, the phrase 'intensification of use' is usually taken to mean, and in fact is more often expressed as 'recreational visitor pressure' on the habitat concerned.

2.1.2 Reason 2 referred to an alleged lack of *wholly exceptional reasons* that might justify the harm, and to the absence of demonstrable mitigability of the anticipated adverse effect.

2.2 Whippendell Wood SSSI

2.2.1 The SSSI Citation for Whippendell Wood includes the following information explaining the basis for its Notification:

This is an ancient woodland site in the clay-with-flints region which retains large areas of semi-natural vegetation. A complex of woodland habitats are present on the pebble clays and sandy soils with Oak/Hazel/Ash and Oak/Hornbeam being the major stand types. Both these woodland types have been much reduced in extent nationally and the former is also scarce in Hertfordshire.

2.2.2 It is apparent from the foregoing that this SSSI was notified because it was a) ancient woodland, and b) comprising two distinct and locally scarce types. It follows from the reasons for its notification, that harm to the SSSI and harm to ancient woodland are indivisible. If one of these is harmed, so must the other be, and if one is not harmed, then the other cannot be harmed either. This interdependency is relevant to my evidence, including to the planning policy position.

2.2.3 Information logged on Natural England’s SSSI portal 01 January 2025 identifies two current pressures on the SSSI, woodland management and recreational pressure, both of which were noted as “high risk”. However, the existence of a “pressure” and a “risk” does not necessarily translate into an adverse effect: this is demonstrated by the current reported condition of the woodland as “100% favourable”.¹

2.3 National Planning Policy Framework 2024

2.3.1 Paragraph **193b** of the Framework applies protection to SSSIs and is relevant here due to the proximity of the Appeal Site to Whippendell Wood which, in turn, was part of the driver for Natural England’s statutory involvement. This paragraph of the Framework applies protection to SSSIs in the following terms:

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.

2.3.2 In addition, NPPF **193c** is also relevant due to the presence of several ancient woodlands on or adjacent to the Appeal Site (Figure 1). Ancient woodland being classed as irreplaceable habitat in the Framework, paragraph 193c is worded as follows:

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 reasons⁷⁰ and a suitable compensation strategy exists.

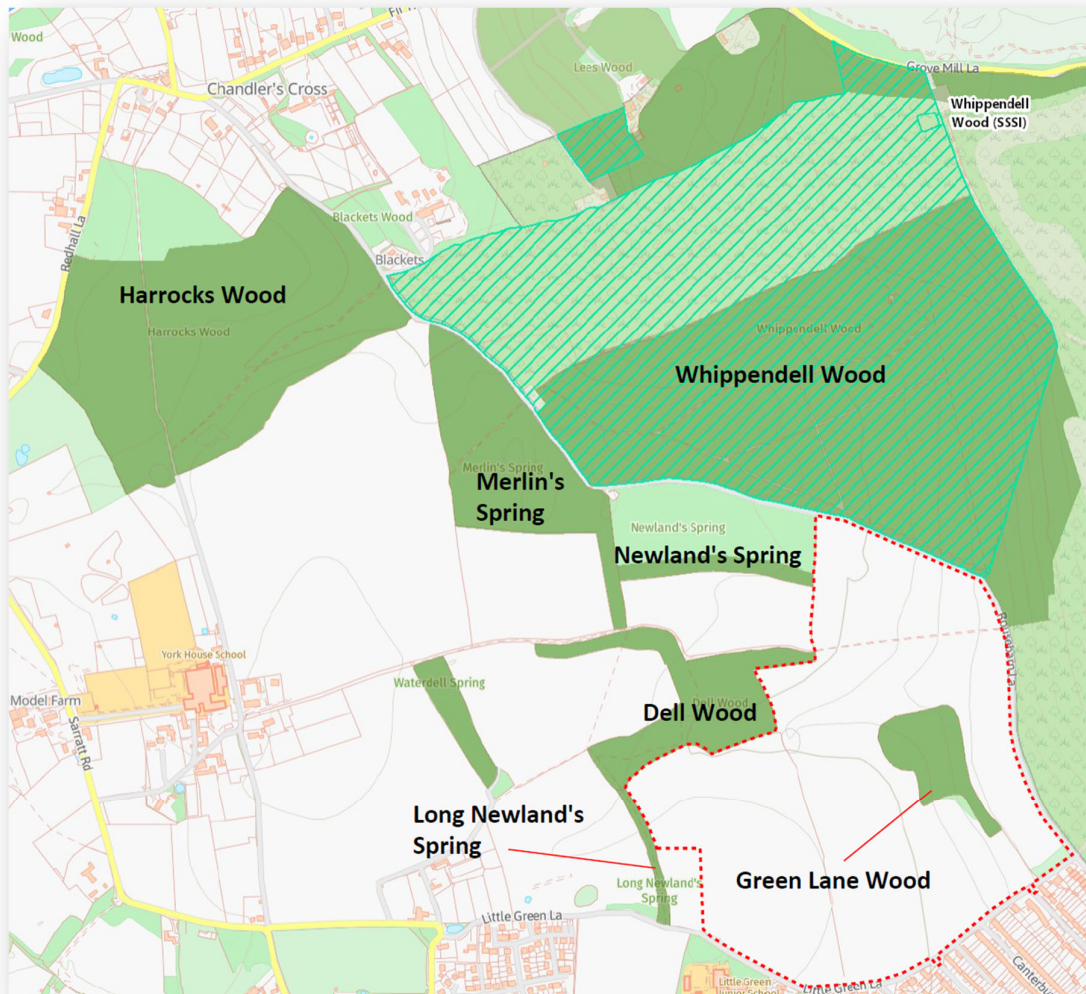
2.3.3 An illustration of the meaning of the term “wholly exceptional reasons” is given in **footnote 70**, which states:

“For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.”

¹<https://designatedsites.naturalengland.org.uk/ReportFeatureConditionSummary.aspx?SiteCode=S1002543&ReportTitle=Whippendell%20Wood%20SSSI>

2.3.4 The Appellant accepts that these two paragraphs of the Framework are *relevant* to a determination of this Appeal. The question necessarily before the Inquiry is whether they are *engaged*; through my evidence I conclude that they are not.

Figure 1 – Extract from MAGIC marked up to show the Appeal Site and nearby ancient woodland



2.4 National-level guidance

2.4.1 Natural England and Forestry Commission jointly publish Standing Advice titled *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions*, January 2022² (CD7.20).

2.4.2 The *Standing Advice* is relevant to the matters addressed in my evidence, specifically to issues of loss or deterioration of irreplaceable habitats, and the nature and role of mitigation for aspects of development that might otherwise (in the absence of mitigation) have such effects.

² <https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>

3 My response to issues raised by key stakeholders

3.1 Three Rivers District Council

3.1.1 It is not unfair to say that the position of the local planning authority is somewhat opaque. Having originally refused planning permission based in significant part on harm to ancient woodland, resulting in engagement of NPPF 193c, the LPA has now elected not to defend the operative Reason. In so far as Natural England – the government’s gatekeeper for biodiversity – considers that the realisation of potential harm can be avoided by mitigation (my section 3.2 refers), this is clearly the correct decision.

3.1.2 For this reason, I consider it surprising that the Council’s Statement of Case seeks to resuscitate harm to ancient woodland into a live issue before the Inquiry. In this regard, it is relevant to note that the protective policy for irreplaceable habitat at paragraph 193c of the NPPF, is concerned with two impacts:

- i) impacts that would result in a physical loss (“loss”), and
- ii) impacts that would result in a functional loss (“deterioration”)

It is the latter harm which was alleged in former Reason 2. There is no third type of impact.

3.1.3 This policy becomes engaged where harm (whether loss or deterioration) would occur of a scale to cross the threshold of materiality. Below this threshold lies the realm of de minimis, where, of course, no policy engagement is triggered. I consider that this context informs interpretation of the Council’s position as it now stands.

3.1.4 Paragraph 5.9 of the Council’s Statement of Case makes clear that it considers harm to ancient woodland would occur of a scale sufficient to weigh in the planning balance, and yet this harm would be *not considered to justify [an] individual [reason] for refusal*.

3.1.5 No aspect of this line of argument is rationally available to the Council, which appears to be attempting to occupy three different positions simultaneously:

- i) We no longer pursue refusal on ancient woodland grounds
- ii) There would be harm to ancient woodland below the level of policy engagement
- iii) There would be material harm that should attract weight in the overall balance

3.1.6 However, as noted already, policy engagement rests on materiality of effect. In this case, harm to AW is either above or below the level of materiality. If the latter, a) it is de minimis, b) policy does not engage, and c) it should not weigh in the planning balance. If the former, 193c necessarily engages and refusal is the required decision absent the acceptability tests being passed.

3.1.7 The Council is seeking to conjure a policy contrivance unknown to planning: material harm to irreplaceable habitat that does not engage 193c would be a new class of impact. In reality, there is no additional or intermediate level or type of harm to irreplaceable habitat: harm is either of sufficient magnitude to engage 193c, and so potentially merit refusal of planning permission, or it is not.

3.1.8 The Council, however, seeks support for refusal in a residual allegation of harm to ancient woodland, after abandoning the proposition that such harm warrants refusal. Whilst introducing the simultaneous coexistence of two different states into the planning sphere is a novel device, I consider there is no assistance to be had from disturbing this particular Schrödinger's Cat. For this reason, the Council's unusual position does not merit serious attention.

3.2 Natural England

3.2.1 As noted, Natural England was a statutory consultee on the planning application due to the proximity of the Appeal Site to two SSSIs. My evidence touches on only one of these, Whippendell Wood. This woodland was notified as a SSSI due to its attributes as ancient woodland. This linkage between SSSI and ancient woodland is indelible.

3.2.2 Natural England's consultation response is interesting. Although initially sponsored by its statutory duty towards SSSIs, in this case Natural England broadened the scope of its attention:

Natural England considers that without appropriate mitigation the application would:

- *damage or destroy the interest features for which Whippendell Wood Site of Special Scientific Interest... [has] been notified.*

In order to mitigate these adverse effects and make the development acceptable, the following options should be secured:

- Provision of 24ha green space/country park with secured management plan/maintenance for the lifetime of the development*
- Minimum 30m buffer zone around ancient woodland within and adjacent to the proposed development*
- An ancient woodland recreational management plan*
- Information packs for residents on sensitive use of local habitats/protected sites*
- A Construction Environment Management Plan for both construction and operational measures*

3.2.3 These comments give rise to several matters that I am pleased to tease out for the Inspector.

Natural England:

- considers that the potential for harm to ancient woodland is mitigable,
- reaches this conclusion in respect of all relevant ancient woodlands, not merely Whippendell Wood, and
- has correctly applied the principles of biodiversity impact assessment: if potential harm is resolved by mitigation, no residual harm remains and hence deterioration of the habitat does not occur.

3.2.4 Of the five mitigation measures required by Natural England, the ability to deliver the first two is apparent from the illustrative masterplan, which demonstrates that there is no obstacle to these provisions being secured at Reserved Matters stage. The last two are clearly topics for Conditions and can readily be secured by this route. This leaves only the ancient woodland recreational management plan (AW-RMP) to discuss.

3.2.5 Natural England having broadened its comments beyond its statutory responsibility (the two SSSIs), its response leaves open the question of to which woodlands its requirement for an AW-RMP refers. In order to clarify this point, I wrote to Natural England on 14 May 2026. Natural England replied by email dated 04 June, stating:

The AW-RMP request within our letter is in reference to the ancient woodland within your redline boundary i.e. Green Lane Wood, which I believe you have identified as being appropriate in regard to development of a management plan.

The correspondence between us is included at JFL3.

3.2.6 Following field work to ascertain the nature and condition of Green Lane Wood, and in dialogue with the project ecologists, Ramm Sanderson, I have drafted heads of terms for the AW-RMP in respect of the onsite area of ancient woodland, which are as follows:

Green Lane Wood is considered not suitable for public access due to its small size, lack of paths and dense bluebell carpet. For this reason, it is proposed that the woodland be fenced off with a suitable barrier that would incorporate mammal gates per standard ecological specification.

The frequency and spacing of the mammal gates would be confirmed by updated ecological surveying during the Reserved Matters design period.

The fencing would be sited immediately outside the woodland edge, with deterrent planting of blackthorn and hawthorn set beyond the fencing in a minimum 5m deep belt, interspersed with wild damson, hazel, holly, and wayfaring tree.

3.2.7 This framework has been consulted back to Natural England, though at time of writing a response remains pending.

3.2.8 Notwithstanding this, in my opinion the Inspector can be confident that all five elements of Natural England's required mitigation either are, or straightforwardly can be put in place. From this, it follows that I consider deterioration to ancient woodland is not expected to occur as a result of the Appeal Scheme.

3.3 The Woodland Trust

3.3.1 The Woodland Trust submitted (18 February 2025) and then maintained (12 November 2025) an objection to the application on grounds of deterioration of ancient woodland, including a number of woodlands under its ownership. The Woodland Trust sites form the Harrocks Wood complex, and include Dell Wood, Newlands Spring, and Harrocks Wood. Other nearby ancient woodlands are Long Newlands Spring, Green Lane Wood, and Whippendell Wood.

3.3.2 The basis of the Woodland Trust’s concern relates to recreational visitor pressure, with Dell Wood, Green Lane Wood, and Long Newlands Spring being identified as especially at risk. The Woodland Trust refers to the required AW-RMP, which at the time of its consultation responses it took to relate to all proximal ancient woodlands. We now know, of course, that Natural England relates the AW-RMP specifically to the on-site ancient woodland, Green Lane Wood.

3.3.3 I have already set out how Green Lane Wood would be protected from excess visitor pressure. In relation to Long Newlands Spring, referring back to Figure 1 shows us that there is no particular reason for putative future residents of the Appeal Site to visit it: the natural line of movement through the landscape is from the south, from Little Green Lane (which already occurs along the PRoW), and not west from the Appeal Site. It seems to me, therefore, that increased visitor traffic along the PRoW is unlikely to be significant. Should a residual concern remain on this point, it would be a straightforward matter to fence the site boundary along this stretch. This detail could be addressed during Reserved Matters and secured by Condition.

3.3.4 In relation to what seems to be the apex of the Woodland Trust’s concern, Dell Wood, it advises that (with my emphasis):

Dell Wood is already experiencing significant deterioration. *The name “Dell Wood” is a reference to the large hollow within the woodland, which currently suffers from anti-social behaviour, fires and barbecues. This has resulted in a large area of compacted bare ground within the woodland and high levels of discarded items and broken glass. The hollow is surrounded by vegetation, which increases the risk of fire spreading through the woodland during periods of drought.*

3.3.5 As noted, Dell Wood is part of the Woodland Trust’s Harrocks Wood complex, and whilst to some extent I sympathise with its position, the Trust specifically encourages visitors to Dell Wood on its website³, noting:

Harrocks Wood is located between Watford and Rickmansworth, to the south of the M25 and is linked via a series of footpaths to four other sites: Whippendell Wood (managed by the local authority), Merlin's Wood, Dell Wood and Newland's Spring (managed by the Woodland Trust). So you can enjoy five contrasting sites in just one visit.

³ <https://www.woodlandtrust.org.uk/visiting-woods/woods/harrocks-wood/>

The Harrocks Wood webpage includes links to various transport options, including the location of nearby car parks, and provides driving directions from Junction 19 of the M25.

3.3.6 With this information in mind, it seems to me that one of two things are true: either the Woodland Trust's concerns for Dell Wood are genuine, in which case it clearly needs to put in place its *own* AW-RMP in any event, or they are to some extent confected. Under the former scenario, one might expect the condition and carrying capacity of Dell Wood to improve if proper access management arrangements are put in place, especially if the Woodland Trust ceased broadcasting Dell Wood on the internet as a visitor attraction. In the latter event, however, their objection would deserve minimal weight.

3.3.7 As noted, though, matters have moved on since the Woodland Trust's objection: Natural England's requirement for an AW-RMP is directed solely at Green Lane Wood, which the Appellant will protect by the simple measure of effective exclusion. It is clear, then, that Natural England does not share the Woodland Trust's wider concerns, and is satisfied that the mitigation measures it requires would be effective. These measures include a buffer zone, which, at 30m, is double Natural England's recommended minimum.

3.3.8 The indelible link between Whippendell Wood as both ancient woodland and SSSI, makes this particular adjacent woodland a habitat of elevated sensitivity: if – as indeed is the case – both that woodland's owners (Watford Borough Council) and Natural England, the statutory duty-holder, do not object to the Appeal Scheme, then it seems to me that the Woodland Trust occupies an outlier position. I consider that the Trust has become further isolated by the Council's abandonment of Reason 2.

3.3.9 Overall, I consider that the Woodland Trust's clear and ongoing failure to prevent the *significant deterioration* of Dell Wood should not comprise the basis of refusal of planning permission for nearby housing. Instead, I submit that the Trust needs to up its game in any event. In this regard, its most recent accounts⁴ report free reserves of £41.8 million, and an annual operating surplus of £16.9 million, with £6.7 million remaining after the purchase of new sites. While some of the Trust's existing woodlands are suffering *significant deterioration*, it occurs to me that its resource prioritisation decisions might benefit from review.

⁴ <https://www.woodlandtrust.org.uk/publications/2025/12/report-and-accounts-2024-2025/> on p.61

4 Conclusions

4.1 The resilience of Reason 2 confirms that the Council agrees that there is no basis for withholding planning permission arising from harm to ancient woodland. The vague and unconvincing residual concerns expressed in its Statement of Case warrant little attention and less weight.

4.2 Natural England considers any foreseeable harm to be mitigable. Its consultation response sets out its requirements in this regard, which the Appellant accepts and will deliver. Such delivery is, anyway, securable via the usual planning mechanisms, remaining, by this means, within the control of the Council.

4.3 The Woodland Trust objects to the Appeal Scheme, but in my opinion this objection is an unsubstantiated, outlier position, which appears to arise in substantial part from management and resourcing decisions of its own manufacture. I respectfully submit that it would be perverse for such decisions to impact negatively on this Appeal.

4.4 The above being so, I consider that there are no arboricultural grounds for withholding planning permission in this case.

Statement of truthfulness and professional endorsement

Pursuant to Procedural Guide: Planning Appeals – England, September 2024, and specifically section 15 Expert Evidence, I confirm that the evidence which I have prepared and provide for this Appeal is true, and has been prepared, and is given in accordance with the guidance of my professional institutions (Institute of Chartered Foresters, Royal Institution of Chartered Surveyors and the Expert Witness Institute). I further confirm that the opinions expressed herein are my true and professional opinions.

Julian Forbes-Laird