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**REBUTTAL TO EXPERT EVIDENCE IN RELATION TO ANCIENT WOODLAND
MATTERS (ANCIENT WOODLAND PROOF OF EVIDENCE), OF MR JULIAN
FORBES-LAIRD**

LAND AT ORCHARD FARM, PERSHORE

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The information, data and advice which has been prepared and provided is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management’s (CIEEM) Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.



1 INTRODUCTION

- 1.1.1 This rebuttal proof of evidence responds to Mr Julian Forbes-Laird (JFL) Expert Evidence in relation to ancient woodland matters of Biodiversity and Appendices JFL1-JFL9.
- 1.1.2 In this rebuttal I have reviewed the matters as set out in Mr Forbes-Laird's proof following Mr Forbes-Laird's order to aid review and appraisal.
- 1.1.3 This rebuttal does not address each and every point made by Mr Forbes-Laird. I have instead focused on the points made by Mr Forbes-Laird in relation to which, in my view, a written rebuttal would be helpful to the inquiry. My silence on any particular point made within Mr Forbes-Laird's proof should not therefore be taken as to indicating agreement.
- 1.1.4 I should note that Mr Forbes-Laird and I are likely to approach this application from slightly different aspects, Mr Forbes-Laird being a qualified and distinguished arboriculturalist whilst I am an ecologist. However the proof prepared by Mr Forbes-Laird seems to focus principally upon the impacts of the development to ancient woodland, which I primarily consider to be an ecological impact and ecological issue, hence I consider myself qualified to prepare the rebuttal to Mr Forbes-Laird's proof.

2 (JFL SECTION 2) NATIONAL PLANNING POLICY AND GUIDANCE

- 2.1.1 In 2.1.1 Mr Forbes-Laird provides an extract of part of the SSSI citation which he notes that he considers the material passage. This passage fails to note or highlight the reference to the bird assemblage within the SSSI which, at the point of designation of the SSSI was measured to exceed the threshold value (calculated through survey of breeding birds) for designation as a SSSI. Breeding birds is listed as one of two principal features. One being the *Assemblages of breeding birds - Mixed: Scrub, Woodland*; and the other being *Lowland mixed deciduous woodland* (See CD10.25).
- 2.1.2 As such it is incorrect to state that the woodland was designated for the two reasons asserted in JFL 2.1.2. It was also designated for the diverse assemblage of breeding birds.
- 2.1.3 However on the point of whether the harm to the SSSI and the harm to the ancient woodland are indivisible (JFL 2.1.3) I am inclined here to agree with Mr Forbes-Laird. If one of these is harmed so must the other be. Included within this harm would be harm to the assemblage of breeding birds for which the SSSI is designated. As such harm to the population of breeding birds associated with the ancient woodland would also be considered to be harm to the ancient woodland.

3 (JFL SECTION 4): TIDESLEY WOOD: RELEVANT BASELINE INFORMATION

- 3.1.1 In JFL4.3.3 of Mr Forbes-Laird's proof he states that in a 28 day period in February they saw no evidence of wardening. However in the subsequent Table 1 (JFL 4.4.2) it states that over a total of 28 days during April visitor monitoring wardens were seen on 9 occasions. This would appear to suggest some warden presence on approximately 30% of the days during what Mr Forbes-Laird states to be the peak visitor month. What is



particularly striking here is that Mr Forbes-Laird considers an on site presence on 30% of days to constitute a greater level of wardening than is proposed within the Woodland Management plan, within which funding is proposed for only one day per week (or 15% of the time) and so approximately half of the time that the WWT are currently able to resource.

3.1.2 In 4.4.3 of Mr Forbes-Laird's proof he highlights that at present when visitors to Tiddesley Wood found the car park to be full they were seen to turn around and depart. I think this neatly illustrates how the Wildlife Trust is currently able to control the number of simultaneous visitors to the woodland. Such control would be entirely lost with the consenting of the 300 new homes within walking distance of the site.

3.1.3 In 4.4.6 Mr Forbes-Laird describes a wardening presence of 9 days per 28 (approx. 30% of time) woefully incapable of materially influencing public behaviour and protecting what I agree is a vulnerable ecosystem. It therefore seems strange that a lower level of wardening presence (of only a day per week) is proposed within the appellants own proposals for wardening of a woodland.

3.1.4 In 4.4.7 of Mr Forbes-Laird's proof he notes that at no point did the wildlife trust seek to close the carpark as means to reduce the number of visitors. He suggests that because this was not done the WWT are happy with the number of visitors. I note that the approach taken here by the wildlife trust appears to be consistent with their view that visitor levels are 'at capacity'. The WWT do not describe visitor numbers being above capacity. As such the position of maintaining the existing car park, which regulates the number of simultaneous visitors to the woods, as open throughout the most popular time of year seems entirely reasonable. Were they to open an overflow car park or extend the existing car park to allow more visitors I might agree that this would indicate that the WWT do not consider visitor numbers to be a problem. However that is not the case. At the periods of peak 'appeal' for Tiddesley Wood, the number of simultaneous visitors (excluding those who arrive by public rights of way) is limited to a maximum of 30 cars, and presumably therefore approximately 60 people (and associated dogs).

4 (JFL SECTION 5) THE CURRENT POSITION OF WORCESTERSHIRE WILDLIFE TRUST

4.1.1 JFL 5.2.5. I would anticipate or suspect that the levels of signs within the woodland have substantially increased since Mr Forbes-Laird visited the site. On my recent walk around of the site I found the signage clear and I felt sufficient to communicate the management objectives of the WWT. The inspector will observe these during her site visit.

4.1.2 In 5.3.1 Mr Forbes-Laird highlights the important point that the conservation management plan would be periodically monitored, reviewed and adjusted. I would agree entirely that periodic review and adjustment of the plan may be required and as such an appropriate mechanism should be allowed to ensure that where appropriate, additional funding can be secured to provide for the adjusted management plan. If the money remains fixed then the options for completing effective alterations to the strategy will be limited and would likely entail diverting budget away from one activity to prioritise another. If the conservation management plan is failing then it seems quite likely to me that additional funding will be necessary rather than a reallocation of the



allotted budget. I do not believe such a dynamic funding mechanism is yet proposed within the S106 but, where possible such a scheme should be considered if the scheme is to be consented.

4.1.3 Further, if as I suggest the increased numbers of people visiting the woodland would result in significantly elevated levels of disturbance within the woodland further displacing bird species and leading to further decline in the SSSI conservation status I am unsure how a review of the woodland management strategy would propose to resolve this adverse effect. Visitors cannot be prevented from accessing the woodland via the public rights of way and as such there may be no viable solution to undo the harm that is caused to the ancient woodland. I do not believe that the WWT fail to understand the importance of review but rather they are of the opinion that review may be ineffective as the harm may be undoable.

4.1.4 In JFL 5.4.2 I rather suspect that the measures to manage deterioration resulting from visitor pressure had not at that moment been implemented. I found that there was abundant evidence that such measures were being implemented. It would seem to me that the WWT is already managing the pressures from the existing woodland visitors and I remain somewhat unconvinced that principally by putting down some hard surfaces to some of the current footpaths would create sufficient headspace to facilitate such a potentially significant increase in recreational pressure. And any such measures, as I demonstrate in my proof would only serve to increase the levels of disturbance within the woodland and would I believe be likely to displace breeding birds from the woodland leading to deterioration of the SSSI Feature condition.

4.1.5 In 5.4.3 Mr Forbes-Laird seems to confuse the general definition of a SSSI in unfavourable condition, the definition of which is provided by Mr Baxter in his proof with the condition assessment of Tiddesley wood. Natural England's own condition assessment (CD10.25) last made in March 2024 of the woodland states the following **(my emphasis)**

*25/03/2024: The breeding bird assemblage scored 30 using the 1983 guidance. This is under the score at notification (45) by 33% the feature is therefore considered unfavourable. This reduced score is impacted by the loss of several high scoring species including Marsh Warbler which has become locally extinct. **Active woodland management is in place for the site.***

*02/07/2021: **Overall, the woodland is actively and very well managed**, with significant areas having been (or due to be) thinned, group felled, coppiced or managed as open space. As a result, the structural elements (canopy, understorey, ground flora, ride network, open space) are well represented and diverse. The woodland ground flora is rich throughout, with additional large areas of bluebells, wet flushes and species-rich marginal vegetation. **Ash Dieback is a pertinent issue, but the site managers are taking appropriate action in-line with national guidance. Recreation has also been identified as a threat to the condition of the site**, which needs monitoring and appropriate management.*

4.1.6 This statement I think makes several things plain. Firstly, that birds, as a SSSI feature is listed as currently unfavourable. That the reason behind this loss of condition is the localised extinction of two species, Marsh Warbler and Nightingale. This has nothing to do with recreational pressure. Marsh Warbler were lost as the species range contracted across the UK and there is now approximately 8 nesting pairs remaining in the UK.



- 4.1.7 The condition assessment also makes it plain that they consider the site to be actively managed and in 2021 the woodland was ‘very well managed’. This seems inconsistent with the picture that Mr Forbes-Laird seeks to paint of the WWT presiding over an under managed neglected ancient woodland. Mr Forbes Laid questions the WWT stewardship of the site which seems in contrast to Natural England’s opinion.
- 4.1.8 On the points raised in 5.5.4 by Mr Forbes-Laird as I elude to both within my proof and in the rebuttal to the ecology proof of evidence I consider the buffers provided on this site to be substantial. I would consider that they will ensure potential adverse effects associated with development in proximity of woodland such as noise, lighting and dumping of garden waste would likely be entirely avoided. However the buffer does not resolve the issue of promxity of development and the ease with which residents can access the woodland. By allocating a larger buffer, such as for example 400m (for which literature evidence exists as set out in my rebuttal for protecting woodland birds from urban development), the anticipated level of recreational pressure would likely be considerably reduced.
- 4.1.9 In 5.6.1 Mr Forbes-Laird seems to suggest that there is no ongoing ash dieback (Chalara) strategy for the woodland. I believe he reaches this conclusion because he has visited the WWT website and did not find a copy of this. I contacted the WWT and asked if this statement was correct. The WWT confirmed to me that there is indeed an Ash Dieback management strategy for the woodland. Quite simply it has not been uploaded to the internet. I would note that NE were already aware of the management strategy within their 2021 condition assessment provided above which stated ‘*the site managers are taking appropriate action in-line with national guidance*’. I would also add to this that in my walkover of the woodland I noted a number of ash trees marked for removal. This would likely have been delayed until the autumn or winter 2024/25 to minimise disturbance to nesting birds over the summer.

5 JFL SECTION 6 – THE COMPREHENSIVE RANGE OF MITIGATION MEASURES AVAILABLE TO ADDRESS VISITOR PRESSURE.

- 5.1.1 On the points raised here I feel that given the requirement for the appellant and the WWT to negotiate and agree the structure and funding requirement of a management plan for the site the tone and general way that Mr Forbes-Laird refers to the WWT throughout his proof I find to be uncondusive to effective negotiation. A number of the points raised by Mr Forbes-Laird within his proof which are used to highlight the mismanagement of Tiddesley Wood are incorrect or present a particularly harsh, and in my opinion unfair appraisal of the WWT and their custodianship of the woodland. Making such accusations, particularly where demonstrably false, do not strike me as a good foundation for further negotiation.
- 5.1.2 I note to that end Mr Forbes-Laird highlights that there are mechanisms available to force the WWT to comply. Such mechanisms are typically reserved for SSSI in failing condition. As noted by the most recent condition assessments Natural England consider the site under ‘active management ‘ and that it is ‘very well managed’.



5.1.3 I would also anticipate that if the development was imposed against the desires of the WWT that they would implement the sorts of measures proposed by Mr Forbes-Laird and Mr Baxter in mitigation for the recreational impact that will inevitably ensue. The WWT are not in my opinion an irresponsible custodian of the woodland.

6 JFL SECTION 7 – CONCLUSIONS

6.1.1 Mr Forbes-Laird asserts as Mr Baxter does that Natural England has withdrawn their objection. As I set out in the rebuttal of Mr Baxters proof, Natural England request further information on the proposal and also highlight that *“The site is not allocated for development as it was removed from the draft Local Plan due in part to the risk of ecological impacts. This indicates that there are more suitable development sites in the local area, which would not pose these risks”*. Some of the requested information by Natural England (CD12.2) has finally been provided in correspondence to the WWT on the 4th October (included as Appendix AB8 of Mr Baxter’s proof), just prior to the submission of the proofs of evidence. Neither Natural England, nor the Wildlife Trust have had a reasonable timeframe to review and engage with the appellant on the detail of this proposal.

6.1.2 I will not reiterate my point regarding the omission of the woodland bird assemblage as a key feature of the SSSI by Mr Forbes-Laird or the failure to really appreciate the significance of this and the increases in the levels of disturbance and the consequences that this may have for the SSSI and the ancient woodland (being that the two are indivisible sides of the same coin).

6.1.3 In 7.5 Mr Forbes-Laird refers to the continued deterioration of the SSSI. It remains unclear where this continued deterioration occurs. Presumably the principal concern is with the network of paths which make up a very small proportion of the whole. Whilst I entirely agree that improvements might be made to these paths which could resolve some of the recreational pressures, the failure to do so will not result in any progressive deterioration. Rather the paths will remain in the cycle which they currently find themselves in, which is to say, their deterioration over winter and their recovery over summer. I find it implausible that the condition of the woodland paths would lead to a significant deterioration in the condition of the SSSI. Natural England appear to be of the view that the woodland is well managed and the condition of the woodland feature within the SSSI is noted to be Favourable. As such, I strongly agree with the suggestion that the development is therefore some sort of white knight arriving to save Tiddesley Wood from the clutches of the WWT.