

Adran yr Economi a'r Seilwaith
Department for Economy and Infrastructure



Objection Ref OBJ0271
File Ref WG/REB/OBJ0271-Barnes

Llywodraeth Cymru
Welsh Government

Response to Objector's Evidence: Richard Barnes (Woodland Trust)

1. GROUNDS FOR OBJECTION

1.1. Details

1.1.1. Richard Barnes has submitted a Statement of Evidence in relation to the draft statutory Orders associated with the Welsh Government's proposals for the M4 Corridor around Newport, which has been received via the Programme Officer.

1.1.2. The Welsh Government understands the evidence submitted within their Statement to be based on the following:

1. Considers that the varied and unique habitats ancient woodland sites provide for many of the UK's most important and threatened fauna and flora species cannot be re-created and cannot afford to be lost. Considers that it is therefore essential that this habitat is protected from development.
2. Objects to the direct loss of 1.04 hectares of ancient woodland at Berryhill Farm with further small (undefined) losses of ancient woodland at Pwll Diwaelod and Roggiett Brake
3. Objects to the indirect impacts resulting in damage to ancient woodland at Berryhill Farm, Pwll Diwaelod, Pye Corner and Roggiett Brake
4. Considers proposals for the translocation of ancient woodland habitat to be inappropriate and incorrectly described as mitigation for the loss of ancient woodland.
5. Objects to the loss of compensation woodland planted as part of the original construction of the M4.
6. Considers that from examination of Chapter 10 of the Environmental Statement (ES) there are limitations and flaws in the assessment of the value of ancient woodland is outlined in Table 10.3.
7. Considers that the proposed new woodland planting schemes and additional mitigation comprise compensation not mitigation. States that loss of ancient woodland cannot be mitigated.

8. Considers that, from reading of the maps (Figure 10.4a – Phase 1 Habitat Plan, contained within ES Chapter 10 – Figures document) paragraph 10.7.149 of the ES appears to be incorrect.
9. The small area of ancient woodland likely to be affected at Pye Corner is referenced in paragraph 10.4.68 of the ES. Considers that, although the area may consist of a young canopy, it would be incorrect to assume that this alone means that the woodland is not ancient.
10. Considers that the assessments made of the value levels of these ancient woods appear to contradict the previous assessment of 'high value' assigned to ancient woodland in Table 10.3 and questions whether the assigned values in the paragraphs mentioned above are accurate reflections of the applicants' pre-determined 'Value of Ecological Receptors' (VER).
11. The planting of new areas of woodland to mitigate for the loss of woodland is alluded to within Chapter 10 of the ES, particularly within paragraph 10.7.152. Considers that the planting of new trees does not mitigate for the loss of ancient woodland. Considers planting new areas of woodland can only be considered as compensation for the loss of habitat as important and valuable as ancient woodland.
12. Considers that the concept that the loss of ancient woodland can be mitigated through the means of new planting, re-use of coppice stools and translocation of ancient woodland soil is incorrect.
13. Considers that compensating for the loss of ancient woodland by new planting at a ratio of 2:1 would be woefully inadequate. Considers that new planting to compensate for the loss of ancient woodland must be considered separately to planting as compensation for the loss of secondary woodland. The Woodland Trust does not believe that you can compensate for the loss of ancient woodland by planting new woodland, but believes that, if such a high value habitat is to be destroyed, then the compensation ratio of newly created habitat should be a minimum of 30:1. Considers that the proposed amount of planting is totally inadequate.

14. Considers that, whilst the planning system in England explicitly allows for biodiversity loss as a result of developments to be offset against gains elsewhere, this is not provided for in Planning Policy Wales. Planning Policy Wales is clear that ancient woodland should not be significantly damaged.
15. Considers that translocation cannot be viewed as mitigation for ancient woodland loss, since the latter is irreplaceable.
16. Considers that it would be highly inappropriate to attempt translocation of ancient woodland soil likely containing Himalayan balsam seeds from Berryhill Plantation.
17. Considers that, unless conservation covenants are implemented to prevent damage or loss of compensatory planting in the future, then these measures cannot be considered as effective compensation for the loss of ancient woodland.
18. Considers that indirect impacts do not appear to be considered in Chapter 10 of the ES despite there likely being negative impact on areas of ancient woodland beyond the footprint of the proposed development that haven't been identified as being subjected to direct loss.
19. Considers that the new woodland created could only be viewed as a compensatory or off-setting measure when it has developed into mature woodland (well beyond the 25 years considered in the ES) and that would never replicate the ancient woodland habitat lost.

2. REBUTTAL

2.1. Points Raised

2.1.1. The above points are dealt with by topic by the relevant witnesses, Keith Jones and John Davies, in the following sections. Readers should also make reference to the Proofs of Evidence in their entirety for a full understanding of the Welsh Government's case. For ease of reference the places where the above points are addressed in this Rebuttal are listed in the table below:

Objector's point reference	Rebuttal paragraph reference	Objector's point reference	Rebuttal paragraph reference
1	2.2.1	11	2.2.7
2	2.2.2	12	2.2.9
3	2.2.3	13	2.2.10
4	2.2.4	14	2.3.1
5	2.2.5	15	2.2.11
6	2.2.6	16	2.2.12
7	2.2.7	17	2.2.13
8	2.2.3	18	2.2.
9	2.2.8	19	2.2.14
10	2.2.8		

2.1.2. The points raised are responded to by specialist topic in turn in the sections following.

2.2. Keith Jones (Ecology)

2.2.1. Response to **Point 1** (Considers that the varied and unique habitats ancient woodland sites provide for many of the UK's most important and threatened fauna and flora species cannot be re-created and cannot afford to be lost. Considers that it is therefore essential that this habitat is protected from development):

1. Whilst true of ancient woodland as a habitat type, not every ancient wood supports the whole range of species.

2.2.2. Response to **Point 2** (Objects to the direct loss of 1.04 hectares of ancient woodland at Berryhill Farm with further small (undefined) losses of ancient woodland at Pwll Diwaelod and Roggiett Brake):

1. The woodland at Berryhill Farm would be lost. A very small area (approximately 600m²) at the edge of the woodland to the north of the existing M4 at Pwll Diwaelod at the extreme west of the Scheme is included in the Scheme. At Roggiett Brake the haul road to Ifton Quarry would be reinstated along the line of the haul road previously used to take out stone for the Second Severn Crossing. There would be some trimming back of vegetation along the edges of the track.
- 2.2.3. Response to **Points 3, 8 and 18** (Objects to the indirect impacts resulting in damage to ancient woodland at Berryhill Farm, Pwll Diwaelod, Pye Corner and Roggiett Brake), (Considers that, from reading of the maps (Figure 10.4a – Phase 1 Habitat Plan, contained within ES Chapter 10 – Figures document) paragraph 10.7.149 of the ES appears to be incorrect), (Considers that indirect impacts do not appear to be considered in Chapter 10 of the ES despite there likely being negative impact on areas of ancient woodland beyond the footprint of the proposed development that haven't been identified as being subjected to direct loss):
1. There would be no indirect effects on Berryhill Farm Wood as the whole wood would be removed. The existing M4 passes between the two woodlands at Pwll Diwealod. There would be no significant increase in indirect effects on these woods. The woodland at Roggiett Brake would only be affected during construction when there would be some impacts as a result of noise and dust from construction traffic.
- 2.2.4. Response to **Point 4** (Considers proposals for the translocation of ancient woodland habitat to be inappropriate and incorrectly described as mitigation for the loss of ancient woodland):
1. As explained in the Proof of Evidence of Keith Jones (WG1.18.1) at paragraphs 7.4.5-7, the hierarchical system for seeking to avoid, reduce and if necessary offset the potential impacts is set out in paragraph 10.5.2 of the March 2016 Environmental Statement (ES) (Document 2.3.2). Peter Ireland describes this in his Proof of Evidence (WG1.7.1). In the ES Document 2.3.2 at paragraphs 10.5.10 – 10.5.13 the various mitigation measures proposed are classified according to this hierarchy. In my opinion, all of the measures to avoid, reduce and if necessary

offset the potential impacts should be considered to constitute the mitigation measures for the scheme.

2.2.5. Response to **Point 5** (Objects to the loss of compensation woodland planted as part of the original construction of the M4).

1. The Scheme would remove roadside plantings around Junction 29 at Castleton. This woodland was mostly planted when the M4 was built in the 1960s. There are small areas of woodland which were planted to fill in gaps when the M4 was widened from 2006. The assertion that this planting was compensation for loss of woodlands is unfounded so far as we are aware. It is unlikely that this would have been a consideration in the 1960s. The planting would simply been part of the landscape provisions of the scheme.

2.2.6. Response to **Point 6** (Considers that from examination of Chapter 10 of the Environmental Statement there are limitations and flaws in the assessment of the value of ancient woodland as outlined in Table 10.3):

1. Whilst ancient woodland as a whole is nationally important, this does not mean that every ancient woodland, not matter how small or degraded, is of national importance. It should be noted that the Berryhill Woodland is not even designated as a SINC of local importance. In my opinion the evaluation of the semi-natural woodlands affected by the scheme as being of importance at the County level is appropriate.
2. In terms of planning policy, there is no grading of ancient woodland; all areas are given the same level of protection by local and national planning policies. Nevertheless, it does not follow that every area of ancient woodland is of national significance. Where there would be loss of such areas, their value and the significance of that loss in the specific case needs to be weighed against other considerations including the benefits of the proposed development, which John Davies considers in his evidence (WG1.23.1).

2.2.7. Response to **Points 7 and 11** (Considers that the proposed new woodland planting schemes and additional mitigation comprise compensation not mitigation. States that loss of ancient woodland cannot be mitigated), (The planting of new areas of woodland to mitigate for the loss of woodland is

alluded to within Chapter 10 of the ES, particularly within paragraph 10.7.152. Considers that the planting of new trees does not mitigate for the loss of ancient woodland. Considers planting new areas of woodland can only be considered as compensation for the loss of habitat as important and valuable as ancient woodland):

1. I agree that the complex ecological systems of ancient woodland cannot be replaced, but new planting can provide woodland habitat which (although simpler) will support woodland wildlife. A good example is the dormouse population at Castleton which is thriving in plantations some 50 years old.

2.2.8. Response to **Points 9 and 10** (The small area of ancient woodland likely to be affected at Pye Corner is referenced in paragraph 10.4.68 of the ES. Considers that, although the area may consist of a young canopy, it would be incorrect to assume that this alone means that the woodland is not ancient), (Considers that the assessments made of the value levels of these ancient woods appear to contradict the previous assessment of 'high value' assigned to ancient woodland in Table 10.3 and questions whether the assigned values in the paragraphs mentioned above are accurate reflections of the applicants' pre-determined 'Value of Ecological Receptors' (VER)):

1. WG1.18.1 paragraph 7.7.21 explains that at Pye Corner a small scrubby plantation includes a small part of an area that is shown as ancient semi-natural woodland in the ancient woodland inventory. However, with the exception of a narrow strip of mature trees beside Picked Lane there does not appear to be any evidence of old woodland. As I have explained in section 4 of this evidence, an aerial photograph from 1945 (Appendix B Figure 1 of this evidence) clearly shows that the site was a field at that time. An aerial photograph from 1979 (Appendix B Figure 2 of this evidence) again shows the site as a field through which a pipeline had recently been installed. It is evident that most of the current wooded area has been established relatively recently.

2.2.9. Response to **Point 12** (Considers that the concept that the loss of ancient woodland can be mitigated through the means of new planting, re-use of coppice stools and translocation of ancient woodland soil is incorrect):

1. Although ancient woodland cannot be recreated within realistic timescales, new woodlands will develop into valuable habitats over time and will to a

degree offset the loss of woodland. We agree that the long term effects of the Scheme on woodland would be a significant impact.

2.2.10. Response to **Point 13** (Considers that compensating for the loss of ancient woodland by new planting at a ratio of 2:1 would be woefully inadequate. Considers that new planting to compensate for the loss of ancient woodland must be considered separately to planting as compensation for the loss of secondary woodland. The Woodland Trust does not believe that you can compensate for the loss of ancient woodland by planting new woodland, but believes that, if such a high value habitat is to be destroyed, then the compensation ratio of newly created habitat should be a minimum of 30:1. Considers that the proposed amount of planting is totally inadequate):

1. The Woodland Trust regularly look for a 30:1 replacement ratio for ancient woodland. I am not aware of any instance where this has actually been provided. I believe the ratio for HS2 is currently around 9:1. The Airports commission have suggested 5:1 for a new runway in the South-east.
2. WG1.18.1, at paragraph 7.3.71/72, sets out that the total loss of woodland across the scheme would thus be some 49.8 ha. The new planting shown on the revised EMP (September 2016 ES Supplement (Doc 2.4.4) Figure R2.6) comprises 104.4 ha of 'Woodland' and 'Linear Belts of Trees and Shrubs' similar to those associated with the existing M4. Unlike the existing woodland, there would be extensive new woodland blocks at Berryhill Farm in the west, and east of Rockfield Farm at Undy in the east. The overall ratio of new woodland planting along the full length of the scheme to that lost is 2.1:1.
3. The replacement of woodland could be looked at in another way. The area of ancient woodland which would be lost would be 1.04 ha. If that was replaced at 30:1 this would require some 31.2 ha. This would leave 70.2 ha to mitigate for the loss of the remaining 48.76 ha of woodland loss, a ratio of 1.4:1. The woodland planting is not only to replace woodland habitat per se, but also to provide habitat for dormouse, a European Protected Species. To the extent that WG is compulsorily acquiring land for planting then we have to be able to demonstrate and defend the position that this is essential. I would not be comfortable justifying greater land take for this purpose.

2.2.11. Response to **Point 15** (Considers that translocation cannot be viewed as mitigation for ancient woodland loss, since the latter is irreplaceable):

1. I agree that translocation of woodland soils and coppice stool cannot be viewed as translocation of an entire habitat. I also agree that translocation is a last resort, when loss of the original habitat is completely unavoidable which is the case for the Scheme.

2.2.12. Response to **Point 16** (Considers that it would be highly inappropriate to attempt translocation of ancient woodland soil likely containing Himalayan balsam seeds from Berryhill Plantation):

1. Not all of the wood is affected by Himalayan balsam. Soils from the affected area would not be used.

2.2.13. Response to **Point 17** (Considers that, unless conservation covenants are implemented to prevent damage or loss of compensatory planting in the future, then these measures cannot be considered as effective compensation for the loss of ancient woodland):

1. The intention is that the Scheme planting would be for the long term but clearly circumstances do change. Any future changes in the area would be subject to proper consideration at the time.

2.2.14. Response to **Point 19** (Considers that the new woodland created could only be viewed as a compensatory or off-setting measure when it has developed into mature woodland (well beyond the 25 years considered in the ES) and that would never replicate the ancient woodland habitat lost):

1. I don't dispute this point.

2.2.15. I confirm that the statement of truth and professional obligations to the inquiry from my main proof still applies.

2.3. John Davies (Sustainable Development)

2.3.1. Response to **Point 14** (Considers that, whilst the planning system in England explicitly allows for biodiversity loss as a result of developments to be offset against gains elsewhere, this is not provided for in Planning Policy Wales. Planning Policy Wales is clear that ancient woodland should not be significantly damaged):

1. Whilst Planning Policy Wales (PPW) does provide policy protection for ancient woodland, the relevant policies are not to be followed slavishly and any conflict must be weighed against all other material considerations, including the benefits that a development would bring. The implication of this point is that PPW does not provide for development to take place that would significantly damage ancient woodland but that is incorrect. The objector quotes PPW paragraph 5.1.15, which requires planning authorities to consult with Natural Resources Wales (NRW) before authorising potentially damaging operations. By implication this advice recognises that there will be occasions when development should be permitted although damage to ancient woodland would result. NRW has raised no specific objection to the impact of the new section of motorway on ancient woodland.
 2. Section 5 of PPW deals with the implementation of specific projects, stressing the importance of balancing conservation objectives with the wider economic needs of local businesses and communities (paragraph 5.5.1). It also advises in paragraph 5.5.2 that where other material considerations outweigh the potential adverse environmental effects, authorities should seek to minimise those effects. There is therefore clear recognition in PPW that there will be instances where specific projects need to be permitted although there may potentially be adverse impacts. The loss of ancient woodland is regrettable but in this case the need to address the problems associated with the M4 around Newport and the benefits the new section of motorway would bring outweigh the loss of ancient woodland in this particular case..
- 2.3.2. I confirm that the statement of truth and professional obligations to the inquiry from my main proof still applies.