



Date: 31st October 2023

Ref: 23/504068/OUT

Site address: Land East Of Albion Road And North Of Copper Lane Marden Kent TN12 9EG

Marion Geary

Maidstone Borough Council

By email only planningcomments@midkent.gov.uk

Dear Marion,

RE: Application Ref. 23/504068/OUT – Outline application with some matters reserved (access only sought) for the removal of 2 former agricultural sheds and erection of up to 117no. dwellings and associated infrastructure including partial footways on Albion Road.

Summary:

Kent Wildlife Trust (KWT) wish to submit a **holding objection** on the current scheme. The proposed development risks detrimentally impacting on turtle dove numbers in the local area, as well as other red list and protected bird species, because of loss of habitat, increased cat predation and artificial lighting. Given the threats to priority species, additional mitigation measures are required to minimise the risk and to compensate for residual impacts.

KWT recommend that a larger area of scrub is created close to the southern boundary along Copper Lane to provide nesting habitat for birds and that a wildlife sensitive lighting design scheme is provided. Cat proof fencing should be installed in addition to the proposed prickly vegetation to the eastern boundary. In addition to the measures outlined above, which should mitigate some negative impacts on priority species, compensation for residual risks and impacts could be delivered via a contribution to KWT and Marden Wildlife Group's 2024 turtle dove research programme which would help deliver GPS trackers, a seasonal research person on-the-ground, acoustic sound recorders to assist with surveying, and off-site turtle dove habitat creation.

A number of instances have been identified where the proposed habitat creation and enhancement is unlikely to be successfully established due to competing pressures and site constraints. This includes the whole habitat mitigation area to the southern section of the site which is being made available for recreational use as well as areas of scrub throughout the residential built environment being expected to achieve good condition.

There is potential for a pathway of impact to exist between the development site and Marden Meadows Site of Special Scientific Interest (SSSI). The application site and the wider area are subject to surface water flooding and using available online records it appears that a ditch network connects the existing ponds within the application site to the SSSI. On the basis that the application site falls within Natural England's Impact Risk Zone for Marden Meadows SSSI it is important that they are consulted on likely impacts to the nationally designated wildlife site.

Site Designations and Protected Species

The application site, and neighbouring sites, are of high priority for nesting and foraging turtle dove which are a priority species of principle importance for the conservation of biodiversity in England and require conservation action under the UK Biodiversity Action Plan. There are records from 2022 of turtle dove nesting in hedgerow which forms the eastern boundary of the site and nesting pairs on land immediately adjacent to the development site. There are three turtle dove feeding strips close to the site which support a significant number of birds. The feeding strips are provided as part of Operation Turtle Dove, a national threatened species programme being funded by DEFRA¹ and RSPB as part of the European Turtle Dove Action Plan².

¹ [SP9: Threatened species supplement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674442/SP9_Threatened_species_supplement.pdf)

² <https://operationturtledove.org/international-conservation/european-turtle-dove-action-plan/>

Neighbouring parcels of land are also providing winter food for birds as part of countryside stewardship schemes which increases the likely presence of protected species, including moths and butterflies, that may be impacted by the proposals.

Planning Framework

National and local policy require that development safeguards and enhances the environment.

National Planning Policy Framework

Section 15 of the National Planning Policy Framework (2023) (NPPF) sets out the Government's current planning policy in relation to conserving and enhancing the natural environment. Paragraph 174 of the NPPF states:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); [...]

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans'.

Paragraph 180 of the NPPF states that:

'When determining planning applications, local planning authorities should apply the following principles:

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.'

In addition to the above, Part D of the paragraph sets out that *'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'.*

Paragraph 185 of the NPPF states that:

'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should [...] limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.'

Relevant Development Plan Policies

It is considered that Policies DM1, DM3 and DM8 of the Maidstone Local Plan (2017) are relevant in this instance. Policy DM1 states that proposals will be permitted where they respond to the location of the site and sensitively incorporate natural features such as trees, hedges, and ponds worthy of retention within the site. The policy goes on to state that proposals will be permitted where they *'protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide sufficient mitigation measures'*.

Policy DM3 requires new development to protect and enhance the natural environment by avoiding inappropriate development considered likely to have significant direct or indirect adverse effect on locally designated sites of importance for biodiversity and local biodiversity action plan priority habitats.

Policy DM8 states that:

‘Lighting proposals that are within or are near enough to significantly affect areas of nature conservation importance, e.g. Special Areas of Conservation, Sites of Special Scientific Interest, National Nature Reserves, County Wildlife Sites and Local Wildlife Sites will only be permitted in exceptional circumstances.’

The Marden Neighbourhood Plan (2019) is also applicable to the proposed development with policies NE3, NE4, and NE5 being the most relevant.

Policy NE3 states that all developments should be designed to *‘integrate into their surroundings in the landscape and contribute positively to the conservation and enhancement of that landscape’*. Boundary treatments of dense hedgerow with native species is preferred if the strengthening of existing hedgerows or restoration of lost hedgerow boundaries is not possible. The policy also requires any necessary artificial lighting systems to reduce their visual intrusion and negative impacts on wildlife.

As well as requiring development to support the aims of the Kent Biodiversity Strategy and to protect priority habitats and Biodiversity Opportunity Areas policy NE4 requires developments to provide a biodiversity net gain so that *‘that any habitat or species loss is replaced elsewhere on-site, in excess of the amount originally lost’*.

Policy NE5 requires new landscape planting to be selected from native species of local provenance with priority given to species that provide food and shelter to wildlife.

Key Considerations

Kent Wildlife Trust (KWT) wish to raise concerns about the impact of the proposed development on priority species and the proposed mitigation measures to address habitat loss within the site. Priority species are of principle importance for the conservation of biodiversity in England and require conservation action under the UK Biodiversity Action Plan. Of particular concern is the impact of the development on turtle dove which, as well as being a priority and red list species in the UK, are listed as vulnerable on the global IUCN Red List of threatened species³. Turtle dove are the UK’s fastest-declining bird species, having declined by 98% since the 1970’s⁴ and Kent County holds one-third of the UK population⁵.

Copper Lane is of high priority for turtle dove and there are records of birds nesting within the application site, particularly within hedgerow along the eastern boundary, and on land immediately adjacent to the site. There are three turtle dove feeding strips close to the site which support significant numbers of birds and neighbouring parcels of land are providing winter food for birds as part of countryside stewardship schemes, increasing the availability of habitat for protected and priority species in and around the site. Very little information on turtle dove activity has been provided as part of the submission and it appears that the most up to date surveys from local wildlife groups and ecologists has not been utilised.

The proposed development risks detrimentally impacting on turtle dove numbers in the local area, as well as other red list and protected bird species, because of loss of habitat, increased cat predation and artificial lighting. It is therefore advised that without additional mitigation measures that adequately address this risk KWT consider the application to be at odds with the commitment to take action under the UK Biodiversity Action Plan and the requirements to protect and enhance, or sufficiently mitigate for, on site biodiversity. Therefore, the proposals do not align with the relevant planning policies listed above.

Loss of turtle dove habitat

Built development is proposed in close proximity to hedgerow along the eastern boundary where turtle dove have been recorded nesting and a large area of scrub, habitat often utilised by turtle dove, is to be removed from the access road to the west of the site. Small areas of mixed scrub are proposed throughout the site as part of the mitigation and

³ [Turtle Dove | BTO - British Trust for Ornithology](#)

⁴ [National turtle dove survey results warn of low numbers, but solutions give hope | The RSPB](#)

⁵ Andrew J. Stanbury, Dawn E. Balmer, Mark A. Eaton, Philip V. Grice, Nicole Z. Khan, Murray J. Orchard & Simon R. Wotton (05 Oct 2023): The status of the UK breeding European Turtle Dove *Streptopelia turtur* population in 2021, Bird Study, DOI: 10.1080/00063657.2023.2256511

enhancement measures however it is likely that the development will detrimentally impact on turtle dove populations not just within the site but within the wider area and so the provision of small areas of scrub are unlikely to be of benefit to turtle dove. It is recommended that a larger area of scrub is provided close to the southern boundary along Copper Lane to provide nesting habitat for other bird species and that additional off-site compensation is provided for turtle dove. It may be possible to secure off-site compensation for turtle dove by providing a contribution to KWT and Marden Wildlife Group's 2024 turtle dove research programme and to off-site compensatory nesting habitat. A financial contribution would help deliver GPS trackers, a seasonal research person on-the-ground, and acoustic sound recorders to assist with surveying. This in turn will allow for a more targeted approach when putting in new feeding strips at other suitable sites in the local area, creating new breeding habitat for habitat that is lost due to development and creating or restoring ponds which turtle dove require for drinking water.

Cat predation on turtle doves

It is noted that the submission proposes planting native scrub of prickly vegetation along the eastern boundary to help deter cats away and maintain current nesting opportunities. It is not anticipated that the proposed planting will provide the reassurances required to ensure that turtle doves are protected from predation by increased numbers of cats associated with residential development. This vegetation will take time to become established and its success will be reliant on effective long-term management with a risk of areas of scrub failing to establish. It is recommended that cat proof fencing is also installed to better mitigate against the impacts of predation on priority species.

Artificial lighting

Artificial lighting has been shown to negatively impact on migratory birds, such as turtle dove, by affecting foraging, migration, orientation, and daily timing of behaviour⁶. Increased lighting also increases predation by enabling birds of prey to hunt later into the night which could affect turtle dove numbers. Lighting within the site could therefore have a detrimental impact on nesting turtle dove. The impact of lighting on the existing and proposed habitats to the southern section of the site is also of concern. It is therefore advised that a wildlife sensitive lighting design scheme is required by condition and provided at the reserved matters stage in the event planning permission is granted.

Biodiversity Net Gain (BNG)

Whilst we appreciate that achieving 10% BNG using the Biodiversity Metric is not yet a mandatory requirement, national policy requires developments to achieve a net gain in biodiversity. The applicant sets out that their scheme delivers significant net-gains to biodiversity of 27.77%. A number of discrepancies have been identified within the submitted Biodiversity Net Gain Assessment which, if addressed would result in a reduced BNG percentage for the site. It is not clear to what extent the BNG percentage would be reduced, and we accept that it is likely that a positive result for BNG would still be maintained. It should however be noted that the significance of the biodiversity benefits are likely to be over-represented by the current BNG Assessment.

A simplistic approach to assessing the type and quality of habitats has been taken, with no evidence that consideration has been given to the impact of pressures (e.g., recreational pressure, trampling or pressures on management in urban areas) from the operation of the development when assigning the condition of habitats. Contrary to the applicant's assertion that good condition may be feasible for the creation of other neutral grassland throughout the development site, we would query if the smaller pockets of other neutral grassland proposed within the development site, particularly narrow areas proposed on verges bordering properties will be subject to suitable management and lack of trampling to achieve a moderate score.

Similarly, the target condition of all scrub across the site achieving a good condition does not seem to be realistic or deliverable given the sites constraints. Achieving good condition for mixed scrub requires that all five of the condition assessment criteria are met – including the requirement to have a well-developed edge with scattered scrub and tall grassland and/or forbs present between the scrub and adjacent habitat. Given that many of the newly planted areas of scrub appear to be situated on road verges or in small areas between buildings and roads it does not seem likely that a management regime would allow all the condition assessment criteria to be met.

⁶ https://cdn.bats.org.uk/uploads/pdf/BCT_Interim_Guidance_Artificial_Lighting_June_2014.pdf?v=1541085199

It should be ensured that post-intervention habitat creation and enhancement is realistic and deliverable, in line with principle 6 of the Biodiversity Metric 4.0 User Guide.

In line with the above, it is important that the habitats being created and enhanced to the southern section of the site account for the public access and recreational use of this area by residents. By allowing complete public access to the entire area it is likely that there will be a level of disturbance that prevents the habitats from being utilised by species. These concerns extend not just to the creation of habitat for BNG, but also to the success of species mitigation measures proposed within the southern portion of the site.

Marden Meadows SSSI

The application site and the wider area are subject to surface water flooding. KWT wish to raise concerns about the impact of surface water flooding from the proposed development on existing ponds within the site, neighbouring habitats, and water courses in close proximity to the site. Using online mapping services, there appears to be a link between the ponds on the development site and Marden Meadows Site of Special Scientific Interest (SSSI) via a network of ditches. On the basis of this potential pathway for impact and the fact that the site falls within Natural England's SSSI Impact Risk Zone for Mardon Meadows SSSI it is recommended that Natural England are consulted regarding potential impacts and the suitability of mitigation. Of particular concern is the risk of polluted surface water runoff seeping into the watercourse which leads to the Marden Meadows SSSI.

We hope that our comments and suggestions are useful. If you have any questions, please do not hesitate to contact me.

Yours sincerely,

Nicholas Trower

Planning and Policy Officer

Kent Wildlife Trust

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