

Farncombe House
Farncombe Estate
Broadway
Worcestershire
WR12 7LJ

t: 01451 870767
e: info@ecologysolutions.co.uk
w: www.ecologysolutions.co.uk



8372: LAND EAST OF ALBION ROAD & NORTH OF COPPER LANE, MARDEN

TECHNICAL NOTE: ECOLOGY RESPONSE

INTRODUCTION

1. Following the production of an Ecological Assessment and a Biodiversity Net Gain Assessment in August 2023 for the proposed development at land to the east of Albion Road and the north of Copper Lane, Marden, comments with regard to ecology were received from the Kent County Council's Ecological Advice Service (KCC EAS) and Kent Wildlife Trust (KWT) in response to the planning application (REF: 23/504068/OUT).
2. This document seeks to address these comments and provide a response to the ecological issues raised by the consultees.

KENT WILDLIFE TRUST

3. A response was received from KWT (dated 31st October 2023), which raised a number of issues regarding ecology each of which is addressed below.
4. The KWT response states, with regard to '**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 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.”

5. The applicant has re-visited the site layout and incorporated additional blocks of scrub (amounting to just over 0.2ha) in the south of the site close to Copper Lane to provide additional compensatory habitat for the loss of scrub in the north-west (see attached Plan – ‘Additional Enhancements Plan’).
6. This includes additional bolstering of hedgerow H5 along Copper Lane, which is currently tall and narrow and not optimal habitat for Turtle Dove (which prefer denser/wider hedgerows).
7. In addition, the applicant is open to the provision of a reasonable financial contribution to KWT and Marden Wildlife Group’s 2024 Turtle Dove research programme and off-site nesting habitat. The level of contribution would need to be agreed in liaison with KWT (efforts to date have been unsuccessful in eliciting a potential level of contribution from KWT).
8. It should be highlighted that the proposals here also include creation of new ponds that will provide further drinking resources for Turtle Dove as highlighted by KWT.
9. The KWT response continues with regard to **‘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.”

10. The applicant is willing to include a run of cat proof fencing in line with the suggestion above by KWT. An indicative line of the fencing is included on the attached Plan – ‘Additional Enhancements Plan’ and an example specification for fencing is included at Appendix 1.
11. A long-term Landscape & Ecological Management Plan (LEMP) could be used to ensure successful establishment of the prickly planting and this could be secured by way of planning condition.
12. The KWT response further states with regard to **‘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 behaviour. 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.”

13. The applicant would accept the imposition of a planning condition to secure a wildlife sensitive lighting design at the detailed (reserved matters) stage. This accords with the recommendations made in Ecology Solutions' submitted Ecological Assessment (August 2023).
14. Based on the provision of all of the above measures (and the agreement of a reasonable level of financial contribution) the scheme would avoid any overall adverse effects on Turtle Dove.
15. The KWT states with regard to '**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.

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."

16. It is welcomed that the KWT agrees that a positive result for BNG would be maintained even if they disagree with the submitted calculation.
17. Notwithstanding, it is incorrect for KWT to state that no consideration has been given to the impact of urban pressures on habitat condition post development. The criticism assumed by KWT as to achieving condition are subjective and the provision of a LEMP (as already alluded to above) would ensure that habitats are managed appropriately and achieve the intended condition. Indeed, the target condition notes in the submitted BNG report explain how the condition will be achieved. Indeed, with regard to the 'other neutral grassland' habitats the assignment of moderate condition is already a precautionary approach. As such, Ecology Solutions disagrees that the BNG score would be significantly reduced. In any event, at the outline stage the submission is to demonstrate that a gain is achievable and the precise score will need to be calculated at the detailed (reserved matters) stage.
18. With regard to public access it is a common misconception that recreational use will automatically be to the detriment of any proposed mitigation. Management of public access is a widely used tool with which the KWT will be intimately familiar as management of Local Nature Reserves (designed specifically for public access) illustrate that high ecology value and public access can co-exist.
19. The KWT goes on with regard to '**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."

20. A separate technical response has been produced by the applicant's drainage consultants that demonstrates how the risk of polluted surface water runoff seeping into the watercourse would be avoid and, in turn, avoid any effects on Marden Meadows SSSI. Indeed, it should be highlighted that the consultation response from Natural England, dated 16 October 2023, already confirms that Natural England do not object to the proposals and do not anticipate any adverse effects arising on any statutorily designated sites (see Appendix 2):

"Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes"

KENT COUNTY COUNCIL'S ECOLOGICAL ADVICE SERVICE

21. A response was received from KCC EAS (dated 1st November 2023), and the points therein are addressed below.
22. Comments with regard to **'Breeding Bird Surveys'** were as follows:

"Despite being aware of the concerns raised by Kent Wildlife Trust and Marden Wildlife Group, the applicant does not appear to have undertaken breeding bird surveys of the site to understand the importance of the site for nesting turtle doves, including in the context of the local population. Kent Wildlife Trust have supplied data to indicate records of turtle doves around the site boundaries in 2023. However, these data are not understood to represent targeted or comprehensive site surveys.

We consider that insufficient information has been provided by the applicant, assessing the impacts of the proposed development on breeding birds. It is therefore recommended that breeding bird surveys are carried out in line with the latest bird survey guidelines and the latest Chartered Institute of Ecology and Environmental Management (CIEEM) good practice guide.

We also note, that whilst the submitted ecology report recognises the potential value of the boundary tree lines/hedgerows for turtle dove, it does not provide a full assessment of the value of the site for foraging turtle doves (to support nesting), nor does it provide a detailed assessment of the suitability of the entire site for turtle dove nesting. For example, no detailed commentary regarding the suitability of the scrub on-site for nesting, or regarding the current value for turtle dove of the hedgerows/tree lines is provided (e.g., in the context of width and height criteria).

We further note that the submitted ecology report dismisses impacts from the proposed development upon turtle doves as most of the hedgerows on-site are to be retained. The report does not acknowledge any potential impacts from increased disturbance, predation or a loss of foraging habitat. Once the scale of mitigation necessary for turtle dove is identified through further survey, mitigation options for turtle dove may need to be reexplored. This could include off-site contributions to habitat enhancements and/or on-site mitigation such as:

- Habitat buffer zones between hedgerows and gardens/housing/areas of public open space;*
- Provision of foraging habitat for turtle dove;*
- Enhancement of retained hedgerows to meet 'ideal' nesting habitat dimensions (i.e., over 4m high and around 3m wide);*

Engagement with interested parties such as Kent Wildlife Trust and Marden Wildlife Group would likely be beneficial to understanding the wider issues and possible solutions.

The additional survey data (along with any necessary mitigation and compensation measures) should be included within the submitted EclA prior to determination of the planning application. This is in alignment with paragraph 99 of ODPM 06/2005 which states, "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise

all relevant material considerations may not have been addressed in making the decision”.

23. The applicant has referenced the suitability of the habitats for Turtle Doves and has entered into discussions with KWT over the on-site mitigation and potential financial contributions for additional off-site measures (as set out above).
24. It is accepted that the scrub in the north-west provides potential suitability for this species, although it has not been recorded using this area throughout any surveys between 2019 and 2023 (as per the submitted Ecological Assessment). As such, additional scrub areas are proposed in the south of the site close to Copper Lane to offset the loss. There are no other habitats within the site that would represent suitable nesting habitat (being an active/intensive orchard) or foraging habitat (they feed almost entirely on seeds and historically, their diet comprised arable plant species). Notwithstanding, with regard to the latter Turtle Doves may take seeds from areas of short vegetation and bare ground such as fallow areas and farm tracks and wild bird feeding areas are also used. As such, some such measures could be incorporated into the open spaces at the detailed design stage if deemed appropriate (albeit financial contributions for such off-site measures are proposed).
25. As such, there is not deemed merit in conducting specific Breeding Bird surveys as the site assessment has already identified suitable habitat for Turtle Dove and mitigation is being proposed accordingly (which in turn would also benefit other breeding birds). Notwithstanding, the applicant has instructed breeding bird surveys to be completed in spring 2024 and the results will be reported in due course.
26. As such, it is considered that the proposals accord with the principles of paragraph 99 of ODPM 06/2005 (as highlighted by KCC) as all relevant impacts have been considered and mitigated/offset as necessary.
27. KCC EAS went on to state the following with regard to ‘**Great Crested Newts**’:

“The applicant has not made clear within the submitted ecology report what the expected impacts to great crested newts (GCN) are, or how these impacts are proposed to be mitigated for. There are positive records for GCN within ponds directly adjacent to the site. Mitigations for GCN are expected to be required as GCN are likely to make use of habitat present on-site.

The applicant will need to decide at this stage, what route to take for GCN. If licensing is not considered necessary, this will need to be fully justified with precautionary measures put in place. It is currently unclear to KCC EAS how much suitable GCN habitat will be affected by proposals. For example, the extent of areas of longer grass across the site are unclear. It would be helpful for these areas to be more clearly mapped/identified. Where seeking licensing, the applicant will need to choose between traditional licensing or District Level Licensing (DLL). If the former, a full mitigation strategy will have to be proposed to demonstrate that mitigation for impacts are achievable. Alternatively, a countersigned DLL impact assessment and conservation payment certificate (IACPC) should be submitted to the local planning authority prior to determination

*of the application*⁵. *Following that, evidence of the full conservation payment can be conditioned if planning permission is granted.*"

28. It is not necessary for the applicant to commit to a specific licensing route, whether it is District Licensing or Traditional Licensing and it is possible to switch from one to the other if desired.
29. Notwithstanding, the proposals would allow a traditional route to be pursued if desired and appropriate mitigation can be achieved. As already stated in the submitted Ecological Assessment (paragraph 5.3.60): *"...the habitats on site are considered to be suboptimal terrestrial habitat and the hedgerows and grassland around the ponds, which would represent suitable habitat, are to be retained and enhanced within the development proposals."*
30. As such, it is considered that there is already sufficient clarity as to the effects of the proposals and it can be demonstrated that, in principle, an acceptable licensing mitigation strategy can be achieved.
31. Contrary to the assertion by KCC that a full mitigation strategy is required at this stage it should be highlighted it is not the LPA's duty to consider the three derogation tests (set out in the Conservation of Habitats and Species Regulations 2017) in detail and their duty is simply to consider if it is 'unlikely' that Natural England would grant a licence (as per *Prideaux V. Buckinghamshire County Council And FCC Environmental UK Limited EWHC 1054, April 2013*). Paragraph 99 states of that judgment states:

*"I think the County Council discharged its duty under regulation 9(5) in this case with no less rigour than was required to comply with the approach indicated by the Supreme Court in Morge. **It did at least as much as it had to do to satisfy itself that the necessary derogations were not unlikely to be licensed.** Indeed, I think it did enough to satisfy even the more burdensome remit for planning authorities envisaged by the Court of Appeal in Morge, and by the judge in Woolley."* [our emphasis added].

32. Given the mitigation strategy will be based around a standard translocation exercise approach there is not deemed to be anything to suggest that the mitigation proposed for this site is unusual and that licensing would not be granted. As such, it is not considered necessary to provide such detailed information at the pre-determination stage. If necessary, such a statement could be the subject of a planning condition for RM approval at the relevant time but is not needed at the outline stage. Indeed, given the application is only in outline, it is not possible to provide definitive details, such as fencing arrangements, as these could change subject to the detailed RM layout.
33. Nonetheless, in the interests of trying to address the KCC concerns the principles for mitigation are set out below:
 - Upon grant of a European Protected Species licence from Natural England, exclusion fencing will be positioned around all areas of suitable habitat within 250m of ponds to be impacted by the proposed development and all Great Crested Newts will be captured and removed from this habitat. All newts captured will be translocated to a receptor site.
 - The precise area for the receptor site will be subject to the detailed RM application but will be in an open space area adjacent to the pond in the south-west corner of the site (and possibly a second receptor in the south-

east) as indicated on the attached 'Additional Enhancements Plan'. This will ensure the receptor area will be linked to off-site areas of suitable habitat and off-site ponds supporting Great Crested Newts (e.g. pond P10 to the west and P8, P9, P25 and P26 to the east). The receptor area(s) will only be temporary whilst construction occurs and, ultimately, the habitat available for Great Crested Newts will include open spaces within the wider Application Site (secured by a Landscape Ecological Management Plan - LEMP) which is currently sub-optimal terrestrial habitats.

- Trapping for 30 - 60 days between March and October (low populations in ponds within 250m that could be viewed together as a medium-sized meta-population). A trapping day is where there is a night air temperature above 5°C.
- Detailed fencing arrangement for trapping subject to detailed RM layout but as part of the capture, exclusion and translocation exercise, exclusion fencing will be positioned for the duration of the development site construction, while upright drift fencing will also be erected within the centre to aid capture prior to clearance.
- Pitfall traps will be used at a minimum density of 50 traps / ha and will be located along the lines of the exclusion and drift fencing. The traps will be installed at 5-10m intervals and artificial refugia will also be placed within any suitable terrestrial habitat. The trapping exercise will terminate following the minimum 60 trapping nights and 5 clear days of no capture.
- Once the Application Site is clear of Great Crested Newts the drift fencing will then be removed but the exclusion fencing along the boundary/receptor will be retained. The removal of the drift fencing will need to be overseen by an ecologist and undertaken between March and October. The retention of the exclusion fencing along the boundary/receptor(s) will ensure no Great Crested Newts enter the development site during construction, and the exclusion fencing will be removed around the boundary once development has been completed.
- Areas of wildflower tussocky grassland and new scrub blocks suitable for Great Crested Newts will be created and maintained within some of the public open space and would be within 250m of the off-site ponds (and thus within the theoretical dispersal distance of this species). It is also recommended that a hibernaculum (or multiple hibernacula) be created within this habitat. Log piles will be provided at other strategic locations. In addition, margins of rough grassland will be provided along retained hedgerows to maintain green corridors for this species.
- The proposed attenuation would provide additional suitable aquatic habitat at times but it is not necessary to offset the loss of any on-site ponds (albeit no GCN were recorded in the on-site ponds in any event).
- Suitable habitats for Great Crested Newts will be secured via an LEMP for the Application Site (see above).
- To ensure no impacts occur to Great Crested Newts post-development, the design of the roads allows for the provision of sloped/dropped kerbs to provide Great Crested Newts with a means of escape should they become trapped on the road, together with wildlife kerbs adjacent to gully pots.

34. Based on the above it can be seen that the mitigation strategy for Great Crested Newts provides appropriate, linked habitats of high quality for this species (in the south of the site) to offset losses of sub-optimal terrestrial habitat. Various habitats will be created/lost and the strategy will ensure that newt dispersal and breeding is not compromised as a result of the development.

35. As such, it is considered the above illustrates that the strategy is both acceptable and deliverable and that a licence is not 'unlikely to be granted' by Natural England.

36. Finally, with regard to '**Reptiles**' KCC EAS state:

"Whilst it is indicated that habitat post-development will be improved for reptiles, it is unclear how impacts to reptiles will be mitigated for during the site clearance and construction process. The extent of areas off-site or on-site suitable to support reptiles displaced during habitat manipulation whilst construction takes place are unclear.

If habitat manipulation is deemed an appropriate mitigation measure, the reptiles must have suitable habitat to move into for the duration of construction. We request clarity on how this will be dealt with effectively to avoid injury/killing, but also to avoid a loss of the on-site population between site clearance and operation. We note that whilst the report indicates that there is only habitat suitable for reptiles along the margins of the site, there are a cluster of reptile records along H4, around P1/a spoil mound, H5, P3 and P4. These areas are all to be lost/relandscaped within proposals and is suggestive of more habitat available than indicated in the main text of the report.

Additional information regarding reptile mitigation measures should be supplied prior to determination. This is in alignment with paragraph 99 of ODPM 06/2005 which states, "it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".

Reptiles are protected from killing and injury under the Wildlife and Countryside Act 1981 (as amended). British reptiles are also listed under section 41 of the NERC Act 2006 and the local planning authority must have regard for their conservation in its planning decision."

37. The reptiles would be relocated to the receptor areas that would be created for Great Crested Newts in tandem with the mitigation strategy for that species. As such, this would ensure injury/killing is avoided and address the concerns raised by KCC.

CONCLUSION

38. In light of the above, it is considered that the based on the measures outlined, and the clarification with regard to mitigation and enhancements that the development proposals will avoid any potential adverse impacts on Turtle Doves, Great Crested Newts and reptiles and their habitats and create new and enhanced opportunities for these species/groups.
39. Based on the technical information produced by other consultants (hydrology) it is considered that the proposed development will not have any adverse hydrological impacts upon Marden Meadows SSSI.

40. As such, it is considered that the concerns raised by both KWT and KCC have been satisfactorily addressed.

Ecology Solutions
March 2024

PLANS

PLAN

Additional Enhancement Measures

ECOLOGY SOLUTIONS
Part of the ES Group

Rev: B

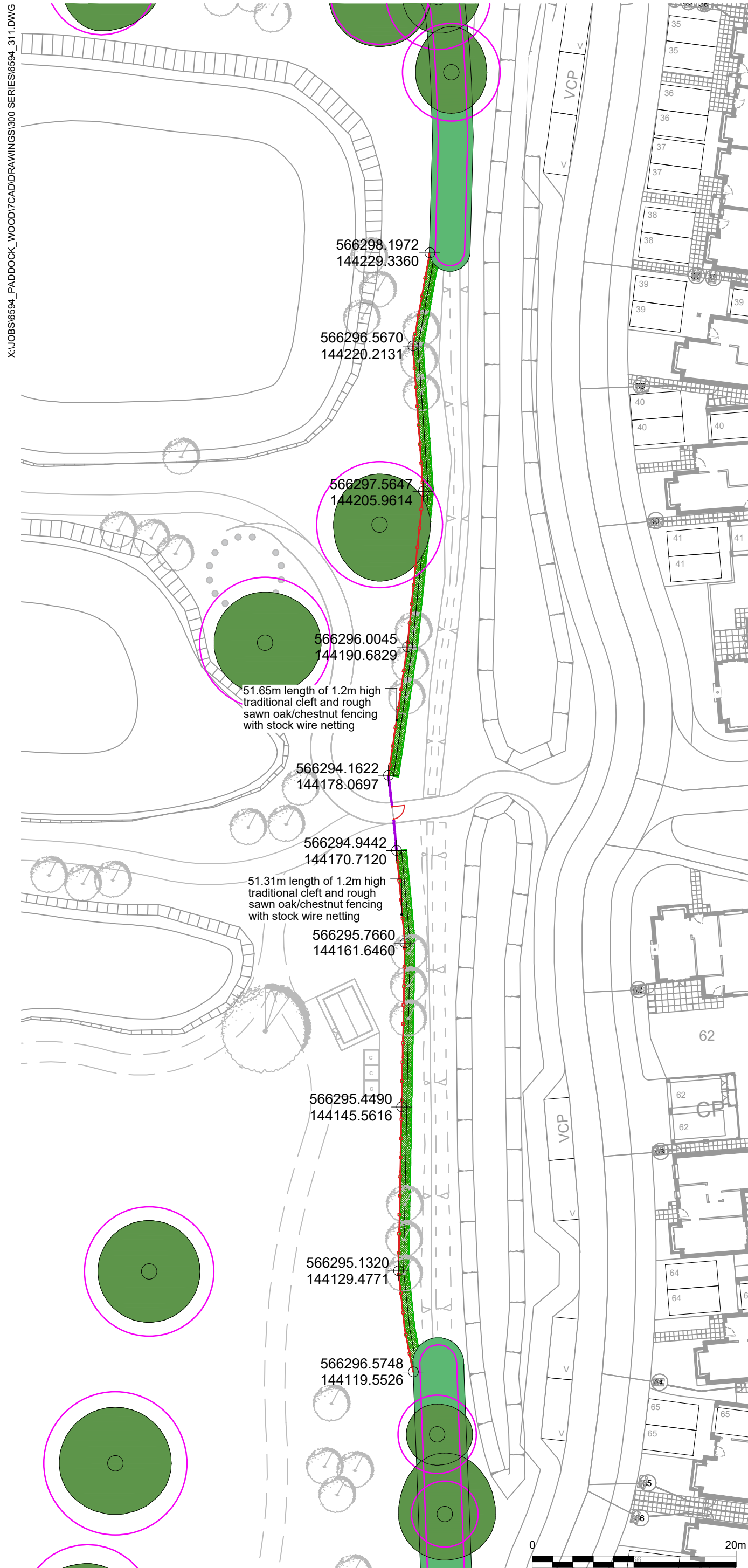
March
2024

APPENDICES

APPENDIX 1

Fencing Example

X:\JOBS\6594_Paddock_WOOD\TACAD\DRAWINGS\300 SERIES\6594_311.DWG



Nature reserve fencing extents with coordinates @1:400

READ THIS FIRST



Note for Contractors

This drawing should be considered along with the risk information contained in the CDM Pre Construction Information. This information will include details of the SIGNIFICANT risks which LDA Design has identified which may arise from constructing their designs shown on this drawing. A Competent Contractor should be aware of the typical risks associated with doing this work.

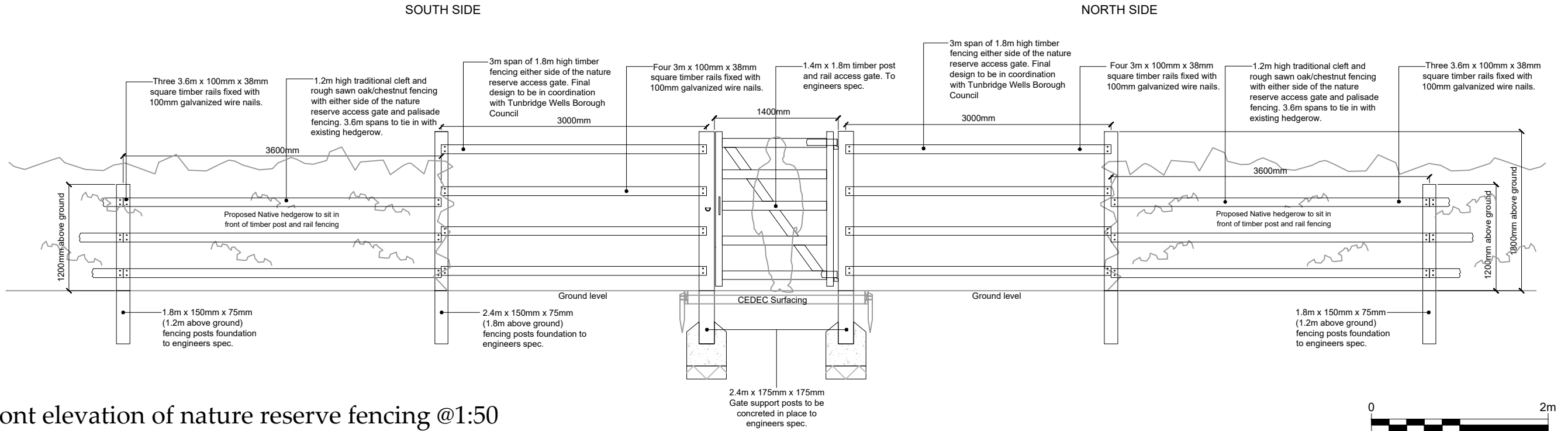


Note for Workers

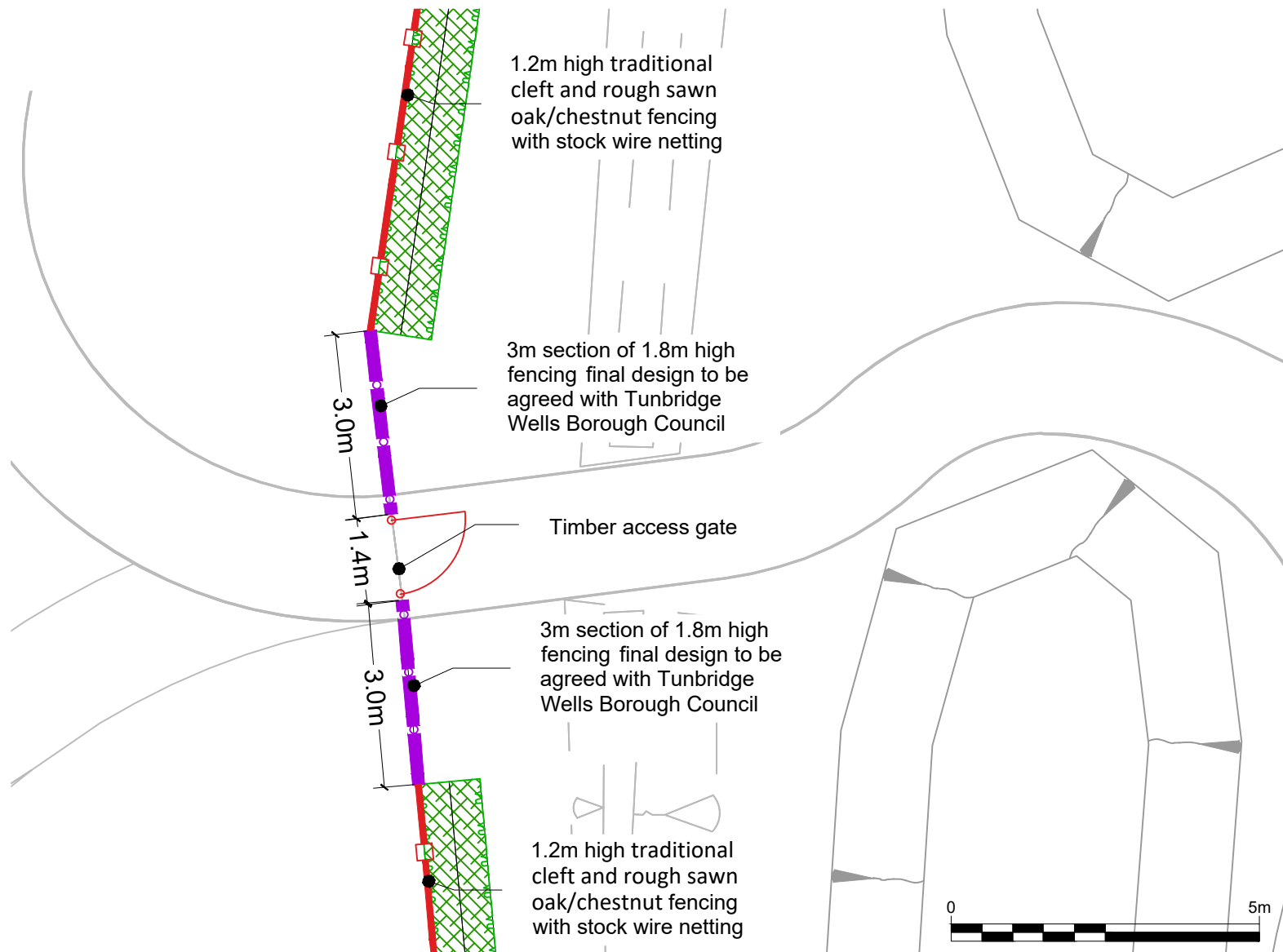
DO NOT START YOUR WORK unless you know the Risks and Controls relating to the work on this drawing (including SAFE SEQUENCES OF WORK and EQUIPMENT).



Do not issue copies of parts of this drawing without the above Note for Workers (unless you are sure that the Workers can undertake the work safely).



Front elevation of nature reserve fencing @1:50



Nature reserve fencing extents @1:100

LEGEND

- 1.2m high traditional cleft and rough sawn oak/chestnut fencing with stock wire netting.
- 1.8m high timber fencing to reserve entrance final design to be agreed with Tunbridge Wells Borough Council
- 1.8 x 1.4m timber access gate
- Native Hedgerow mix

Hardworks Proposals to be read in conjunction with the rest of the External Works information.

For additional information, refer to:

- Development area detailed planting (6594_100-115)
- Development area detailed tree and hedging proposals (6594_120-123)
- Development area grass planting (6594_140-143)
- Advance Planting 6594_126
- Infrastructure Softworks (Series 200)
- Open Space softworks proposals (6594_230-235)
- Infrastructure Hardworks (Series 300)
- Open Spaces hardworks proposals (6594_320-322)
- Sections and Details (Series 400)
- Landscape Specification (Series 500)

C02	Amendments following design changes and layout revision (see revision clouds for locations)	CA	19.04.21
C01	General Amendments	CA	23.09.19
REV.	DESCRIPTION	APP.	DATE

LD̂A DESIGN

PROJECT TITLE
PADDOCK WOOD

DRAWING TITLE
Nature reserve fencing details

ISSUED BY	Peterborough	T: 01733 310 471	
DATE	DEC 19	DRAWN	KBo
SCALE@A2	As shown	CHECKED	CA
STATUS	Construction	APPROVED	CA

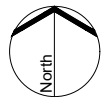
DWG. NO 6594_311_C02

No dimensions are to be scaled from this drawing. All dimensions are to be checked on site. Area measurements for indicative purposes only.

© LDA Design Consulting Ltd. Quality Assured to BS EN ISO 9001 : 2015

Sources Ordnance Survey

Scale as shown



APPENDIX 2

Consultation Response from Natural England 16
October 2023

Date: 16 October 2023
Our ref: 452146
Your ref: 23/504068/OUT



FAO Marion Geary
Maidstone Borough Council Planning

BY EMAIL ONLY

Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Dear Marion Geary,

Planning consultation: 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.

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

Thank you for your consultation on the above dated 27 September 2023 which was received by Natural England on 27 September 2023.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely,

Richard Gibson
Consultations Team

Annex A – Additional advice

Natural England offers the following additional advice:

Landscape

Paragraph 174 of the [National Planning Policy Framework](#) (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on [Gov.uk](#). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Annex A – Additional advice

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's [Biodiversity Metric 4.0](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of [Biodiversity Metric 4.0](#) and is designed for use where certain criteria are met.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside [Biodiversity Metric 4.0](#) and is available as a beta test version.

Green Infrastructure

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Annex A – Additional advice

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 100 and 174 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).



ECOLOGYSOLUTIONS

Part of the ES Group

Ecology Solutions Limited | Farncombe House | Farncombe Estate | Broadway | Worcestershire | WR12 7LJ

01451 870767 | info@ecologysolutions.co.uk | www.ecologysolutions.co.uk