Date: 10th July 2024
Ref: 24/502123/EIOUT
Site Address: Land North and South of The A2 Boughton Bypass, Dunkirk, Kent, ME13 9LG

By email only: planningcomments@midkent.gov.uk

Dear Simon Greenwood,

RE: Application 24/502123/EIOUT – Outline application (all matters reserved except for access) for a mixed use phased development comprising up to 1,815 dwellings (Use Class C2 and C3); an Employment park (Use Class E(g) and B8); local centre accommodating a mix of units to provide a Health and Wellbeing Centre (Use Class E(e)), all purpose store (Use Class E(a)), shops/ancillary retail units (Use Class E(a)), community/general use units (Use Class F2) and food and beverage units (Use Class E(b)); public open space and recreation including community park, recreation trail and improved pedestrian/cycle links across the A2; sports and education facilities comprising 2 From Entry (2FE) primary school (Use Class F1(a)), early years centre (Use Class E), leisure facility (Use Class E(d)) and sports pavilion (Use Class E(d)); provision of a minimum of 10% Biodiversity Net Gain; transport and access infrastructure including an integrated bus link to the surrounding area, upgrades to the Dunkirk A2 junction through a new trunk road slips and an electric vehicle charging hub (c.0.2 ha) within the village centre for approximately 36 vehicles as a mix of medium, rapid, ultra rapid and Tesla chargers, alongside associated facilities including toilets and potential for cafe facility; and associated parking, servicing, utilities, footpath and cycle links, drainage, ground and other infrastructure.

SUMMARY
Kent Wildlife Trust (KWT) has previously provided comments on the Environmental Impact Assessment (EIA) Scoping Option (23/501071/EIASCO) for the above application in April 2023. Our main concerns outlined within the response included the inadequate size of the buffers along South Blean Woods Local Wildlife Site (LWS), the significant increase in footfall and disturbances from recreational pressures within South Blean Woods LWS, the risk of degradation to the LWS through an increase in noise, artificial light, changes in air quality and cat predation, and the indirect impacts a development of this scale will have on these and other surrounding designated wildlife sites, such as the larger Blean Wood Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) Complex and Church Woods, Blean SSSI. We also raised concerns that KWT had not been included in any of the pre-application discussions the applicant had with the council and "key local stakeholders". As KWT are the landowner and manage a large section of South Blean Woods LWS, which borders the application site, it's disappointing that the applicant had not approached us to be included within these discussions, nor has KWT been approached by the applicant since raising these concerns during the 2023 consultation. Having reviewed the information included within application 24/502123/EIOUT, we note that our previous concerns have not been addressed and therefore KWT **object** to this development.

Please ensure that KCC Ecology and Natural England are consulted regarding ecology and European designated sites.

NATIONAL AND LOCAL POLICY
National Planning Policy Framework
The application site is located directly adjacent to South Blean Woods LWS, with the LWS forming the site's eastern and western boundaries. The site is also some 180m south-west of Church Woods, Blean SSSI, which is part of the Blean Complex SAC and designated as a LWS, National Nature Reserve, RSPB Reserve and Grade I in 'A Nature Conservation Review'. South Blean Woods LWS and the surrounding designated sites are afforded protection under Section 15 of the National Planning Policy Framework (NPPF, 2023), which sets out the Government's current planning policy in relation to conserving and enhancing the natural environment. Paragraph 174 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 (2021) 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
South Blean Woods LWS and the application site itself, are protected under local policy DM24 of The Swale Borough Local Plan (adopted in 2017) as Areas of High Landscape Value. Policy DM24 Conserving and Enhancing Valued Landscapes states:

"The value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed […] Within the boundaries of designated landscape areas, as shown on the Proposals Map, together with their settings, the status given to their protection, enhancement and management in development decisions will be equal with the significance of their landscape value as follows:
[…] Areas of High Landscape Value (Kent and Swale Level) are designated as being of significance to Kent or Swale respectively, where planning permission will be granted subject to the:
1. conservation and enhancement of the landscape being demonstrated;
2. avoidance, minimisation and mitigation of adverse landscape impacts as appropriate and, when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh harm to the Kent or Swale level landscape value of the designation concerned."

South Blean Woods LWS is also protected under Policy DM28 as a Designated Site for Biodiversity for containing habitats or supporting species which are endangered at international, national or local level. Policy DM28 states:

"*Development proposals will give weight to the protection of the following designated sites for biodiversity, as shown on the Proposals Map, which will be equal to the significance of their biodiversity/geological status, their contribution to wider ecological networks and the protection/recovery of priority species as follows:*

[…] Within locally designated sites (including draft published sites), development likely to have an adverse effect will be permitted only where the damage can be avoided or adequately mitigated or when its need outweighs the

biodiversity interest of the site. Compensation will be sought for loss or damage to locally designated sites […] Development proposals will:
1. Apply national planning policy in respect of the preservation, restoration and re-creation of:
a. the habitats, species and targets in UK and local Biodiversity Action Plans and Biodiversity Strategies;
b. linear and continuous landscape features or those acting as stepping-stones for biodiversity;
c. aged or veteran trees and irreplaceable habitat, including ancient woodland and traditional orchards"

Other development plan policies that are relevant in this instance and need to be considered include:
Policy ST 1 – Delivering sustainable development in Swale
"*To deliver sustainable development in Swale, all development proposals will, as appropriate:*
Conserve and enhance the natural environment by:

- *a. applying international, national and local planning policy for: (a) areas designated for their biodiversity (inc. Nature Improvement Areas), geological or landscape importance; and/or (b) priority habitats and populations of protected and notable species;*
- *e. achieving net gains in biodiversity within and around developments by use of such measures as natural/semi-natural greenspace and the creation of coherent ecological networks;*
- *f. avoiding significant harm to biodiversity or, when not possible, adequately mitigating it, or, as a last resort, compensating for it with off-site action at identified Biodiversity Opportunity Areas or other appropriate locations*"

Policy CP 4 – Requiring good design
"*All development proposals will be of a high quality design that is appropriate to its surroundings. Development proposals will as appropriate:*
Conserve and enhance landscape, biodiversity and local environments by:

- *a. assessing and responding to landscape character, condition, sensitivity and any limitations arising from its overall capacity for change, together with the guidelines set out within the Landscape Character and Biodiversity Assessment and Guidelines and Urban Extension Landscape Capacity Study;*
- b. *retaining trees where possible (including old orchards and fruit trees, hedgerows, shelter belts, woodland and scrub) particularly those that make an important contribution either to the amenity, historic, landscape character or biodiversity value of the site or the surrounding area*"

Policy CP 7 – Conserving and enhancing the natural environment – providing for green infrastructure
"*The Council will work with partners and developers to ensure the protection, enhancement and delivery, as appropriate, of the Swale natural assets and green infrastructure network and its associated strategy. Development proposals will, as appropriate:*

1. *Recognise and value ecosystems for the wider services they provide, such as for food, water, flood mitigation, disease control, recreation, health and well-being;*
2. *Protect the integrity of the existing green infrastructure network as illustrated by the Natural Assets and Green Infrastructure Strategy Map, having regard to the status of those designated for their importance as set out by Policy DM24 and Policy DM28;*
3. *Where assessment indicates that it is necessary to enhance and extend the network (including when management, mitigation and/or compensatory actions are required to address adverse harm), be guided by the Green Infrastructure Network and Strategy Map, prioritising actions toward identified Biodiversity Opportunity Areas;*
4. *Ensure that there is no adverse effect on the integrity of a SAC, SPA or Ramsar site, alone or in combination with other plan and projects, as it would not be in accordance with the aims and objectives of this Local Plan;*
5. *Require the completion of project specific Habitats Regulations Assessment, in accordance with Policy DM28, to ensure there are no likely significant effects upon any European designated site. For residential sites within 6km of an access point to any of the North Kent Marshes, development must contribute to its Strategic Access Management and Monitoring Strategy;*
6. *Contribute to the objectives of the Nature Partnerships and Nature Improvement Areas in Kent;*

7. *Make the enhancement of biodiversity and landscape as their primary purpose*"

Policy DM 19 – Sustainable design and construction
"*Development proposals will include measures to address and adapt to climate change in accordance with national planning policy and guidance and, where appropriate, will incorporate the following:*
e. Demonstration of a contribution to the network of green infrastructure and biodiversity, including through tree planting, green roofs and walls, soft landscaping and sustainable drainage systems as appropriate in accordance with Policy CP 7"

From reviewing the Environmental Statement (ES) documents included within the planning application, we note that some of these policies are mentioned, however we are not convinced that the proposed development aligns with these polices. For example, the applicant has stated within Chapter 13 of the ES that to align with policy DM 28 they will provide mitigation offsite if adequate mitigation cannot be provided onsite. However, from reviewing the ecological documents, the applicant has not recommended any offsite mitigation, despite not providing adequate onsite mitigation for the loss of priority species breeding habitat. We recommend that the application addresses the requirements of these key policies before the decision stage. We also wish to point out that Swale Council decided the site was an unsuitable site for allocation and therefore not taken forward in the emerging Local Plan.

IMPACTS TO BIODIVERSITY
South Blean Woods Local Wildlife Site and Kent Wildlife Trust Reserve
South Blean Woods Local Wildlife Site (LWS) comprises a large (663.2ha) relatively undisturbed woodland complex on acidic dry and damp soils adjacent to the large Blean Wood SSSI complex to the north, which is the largest area of ancient woodland in south-east England. The entire LWS is listed as ancient woodland and is known to support at least 46 ancient woodland indicator higher plant species. Fragments of dry and wet heathland, ancient bog habitat, acid grassland and traditional orchard also form an integral part of the interest of the site. A large area (329ha) of South Blean Woods LWS is managed as a Nature Reserve by KWT. Between 2021 – 2022 this area of the LWS was part of a £1.3 million restoration project, funded by the Green Recovery Challenge Fund. This project successfully restored ancient bog habitat within the LWS. We are concerned that the proposed development would undermine the work done as the significant increase in recreational pressures and disturbance would likely degrade the habitats within South Blean Woods LWS, which currently do not experience high levels of footfall.

Nightingale, honey buzzard, flycatchers, lesser spotted woodpecker, nightjar and tree pipit breed within the LWS, with other notable species such as mistle thrush, goshawks and turtle dove also recorded. South Blean Woods LWS comprises of a species-rich ground flora with notable species such as spotted orchid, early-purple orchid, common twayblade, yellow wort, fairy flax, marsh violet, wood horsetail and English bluebell. The heath fritillary butterfly, which is one of the UK's rarest butterfly species, and the fiery clearwing moth which is an endangered species and one of the UK's rarest invertebrates, are also present across the Blean Wood SSSI complex and South Blean Wood LWS. Both species are a UK BAP priority species, and species of principle importance under the NERC Act and fully protected in Great Britain under Schedule 5 of the Wildlife and Countryside Act 1981. Both species are restricted to just a few remaining strongholds, including Blean Wood SSSI complex and South Blean Woods LWS.

It is understood that the scope of the proposed development is for 1,815 residential units, which as mentioned within Sports England's consultation response, would equate to a population of over 6,300 people, based on 2.5 - 3.5 residents per dwelling. This does not include visitor numbers for the proposed employment park, health and wellbeing centre, sports and leisure facilities, primary school and food, beverage, and retail units. With a proposed development of this size to be built within an Area of High Landscape Value and directly adjacent to a LWS, there is a serious risk of adverse effects from direct and indirect impacts. Indirect impacts to South Blean Woods LWS include an increase in artificial light, noise, run-off and dust pollution during the construction phase and increase in light, noise, air quality changes, recreational pressures, littering, and cat predation during the operational phase. We are concerned a development of this scale will see a significant increase in footfall and disturbance to South Blean

Woods LWS from people, dogs, and cat predation, which currently we feel has not been appropriately assessed or mitigated against. Small mammals, including dormice which are known to be present onsite and within South Blean Wood LWS, as well as birds, particularly ground and low ground nesting birds such as the onsite breeding skylark and nightingale, nightjar and woodcock within the LWS, will be at particular risk to cat predation as well as disturbance to people and dogs during breeding. KWT strongly disagree with the statement within the Environmental Impact Assessment (EcIA) which states there will be negligible impact to the bird population, particularly that the applicant has failed to mention and mitigate for cat predation. Studies have suggested a figure of 320 – 330 cats per 1,000 homes[1], which would give an estimate of 581 – 599 cats living within the new development. It is extremely concerning that there is no mention of cat predation within the EcIA, therefore we strongly urge the applicant addresses this within an amended report and that appropriate mitigation measures can be devised before the decision stage. Due to the application site's location, and with the potential of nearly 600 cats living within the proposed development, there is a serious risk that the development could have a significant impact on the bird population within South Blean Woods LWS. Likewise, as mentioned above, South Blean Woods LWS supports at least 46 ancient woodland indicator higher plant species and a number of notable species such as various orchids and English bluebell. We currently do not feel the applicant has appropriately assessed the impact increased footfall will have on the LWS and ground flora of the ancient woodland, along with an increase in nitrogen and phosphorous from dogs, which has the potential to alter the assemblage of the ground flora, degrading the ancient woodland. We strongly recommend that these issues are addressed and mitigated against before the decision stage.

With a population increase of over 6,300 people, we cannot see how the integrity of the LWS and ancient woodland will be retained post development. We note that the current mitigation measures to minimise public access into the woodland includes improvements to the existing footpaths. The applicant does not specify which woodland and which footpath they are referring to when discussing these enhancements, so unless this is within the applicant's land ownership, we cannot see how they can enforce this on land they do not own. Several of the public footpaths go through KWT's Nature Reserve, and we are not convinced that improving the footpaths will reduce footfall within the LWS and will instead make it more accessible and further increase recreational activities. Likewise, improving the existing footpaths will not prevent free roaming dog and cats from disturbing wildlife and degrading the ancient woodland soils and ground flora through an increase in nitrogen deposition. To protect South Blean Woods LWS and the ancient woodlands, we strongly advise that an Ecological Mitigation and Enhancement Strategy is devised before a decision is made, which will identify strategies required to retain, protect, and enhance the nature conservation value of the surrounding designated sites. To appropriately reduce the risks of indirect impacts to South Blean Woods LWS and surrounding ancient woodlands, strategic alternative green spaces need to be designed onsite to encourage residents to access dedicated green spaces to relieve pressures on surrounding designated conservation sites. From reviewing the Landscape Masterplan documents, we are not convinced that the current proposed green spaces, such as the village green, provides enough recreational space to accommodate a development of this size and relieve pressures to the surrounding wildlife sites.

In our response to the EIA Scoping Option consultation, KWT raised concerns over the proposed ancient woodland buffers. It is disappointing to see that our concerns have not been addressed and the applicant still proposes only 20m buffers between the adjacent ancient woodlands and development. We consider the proposed buffers of 20m to be inadequate for a development of this size and strongly urge that the applicant should align with guidance by the Woodland Trust, which states "*As a precautionary principle, a minimum 50 metre buffer should be maintained between a development and the ancient woodland, including through the construction phase, unless the applicant can demonstrate very clearly how a smaller buffer would suffice*." Larger buffers would also help reduce the risk of cat predation within the LWS and ancient woodlands.

[1] Underhill-Day, J. (2005). A literature review of urban effects on lowland heaths and their wildlife. In. English Nature Research Report No. 623. English Nature, Peterborough

UK BAP Priority Habitats

Under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006, an inventory of Priority Habitats was devised. This is a list of habitats and species of principle importance for the conservation of biodiversity in England and require conservation action under the UK Biodiversity Action Plan (UK BAP). The proposed development would result in the direct loss of onsite habitats, which include priority habitat deciduous woodland, hedgerows, veteran trees, ditches and streams which could all be adversely impacted by the development. From reviewing the Illustrative Masterplan and the application site on MAGIC maps, we are concerned that areas of priority habitat deciduous woodland within the northern boundary will be lost to make way for the new road. It is extremely concerning that these areas of woodland to be lost have not been recognised within the EcIA as priority habitat. Likewise, we are concerned that hedgerows which will be directly impacted are also priority habitats, which has not been addressed by the applicant. Priority habitats are a focus for conservation in England and are protected within the NPPF (2023). Priority habitats are also protected within the Swale Borough Local Plan under policies ST1 and DM28. Due to the direct loss of priority habitats, KWT disagree that there will be no significant impacts to onsite habitats. We strongly urge the applicant addresses the loss of protected priority habitats within an amended EcIA before the decision stage.

Protected Species

The onsite and adjacent habitats support a variety of species such as dormice, great crested newt (GCN), reptiles and breeding birds such as blackcap and chaffinch, including skylark which were recorded breeding within the application site. As stated above, many of these species will be at risk to cat predation, with studies[2] estimating that cats kill 160 to 270 million animals in the UK annually, a quarter of them birds. With an estimated population of 581 – 599 cats living within the proposed development, we strongly disagree with the EcIA that there will be negligible impacts to protected species such as birds and small mammals, particularly within the surrounding wildlife sites. We also wish to point out that the mitigation fails to mention any habitat creation for skylark which are present onsite and will be directly impacted by habitat loss. Skylarks are a priority species and efforts should be made to avoid, mitigate, and as a last resort compensate for the loss of breeding habitat. If mitigation is not possible onsite, we would expect to see efforts made to compensate for the loss of breeding skylark habitat offsite.

KWT wish to address that the application site is surrounded by an Important Invertebrate Area (IIA), which has not been mentioned within the ecological reports. IIA's support nationally or internationally significant invertebrate populations and their habitats. The majority of the application site is surrounded by Kent Downs and Stour Valley IIA, which will be subject to indirect impacts such as an increase in light, noise and dust pollution and degradation of habitats from recreational pressures which could reduce foodplant and pollination availability. We also wish to highlight that heath fritillary and fiery clearwing moth populations have been recorded near the application site. The application site itself does not contain suitable habitat for heath fritillary, however consideration needs to be given to indirect impacts to the species within the immediate surrounding area. We are concerned however that the application site supports suitable habitat for the fiery clearwing moth. We have noted from reviewing the Preliminary Ecological Appraisal (PEA) that curled dock is a dominant species recorded throughout the field margins, tall ruderal, and parcels of grassland. Likewise, common sorrel was noted to have been recorded frequently within the site. Both curled dock and common sorrel are the favoured larvae foodplant for fiery clearwing moths. Fiery clearwing moths lay their eggs on curled dock and common sorrel and when the eggs hatch the larvae burrow into the roots where they will spend one year (sometimes two) in the roots feedings before pupating and emerging in Spring. Due to climate change the species, which was once restricted to coastal habitats in Kent, has now been recorded across East Kent and more recently Essex. There is a known population of the fiery clearwing moth close to the application site and therefore we strongly urge species specific surveys, such as egg searches, are undertaken before the decision stage to identify whether this protected species is present onsite. Fiery clearwing moths are fully protected under Schedule 5 of the Wildlife and Countryside Act and a licence is required from Natural England to legally undertake works that will disturb individuals and their habitat. We strongly urge that the applicant contacts Butterfly Conservation for further information and guidance on how to survey for this species.

[2] https://www.sciencedirect.com/science/article/pii/S0169204621003017#b0135

BIODIVERSITY NET GAIN

KWT cannot give a detailed evaluation of the Biodiversity Net Gain (BNG) metric or report as the metric is incomplete. The BNG report has provided a baseline (pre-development) biodiversity value of the site only. They have stated that they can achieve a +10% net gain post-development, however have not completed the metric or provided the evidence to show that this is achievable. Important supporting ecological documents to accompany the BNG report are also missing, such as the baseline condition score assessment. Without the relevant evidence as to how the baseline habitats were assessed, such as using the Condition Score Assessment Sheets, the applicant fails to provide an adequate justification for their conditions.

As previously stated within this response, the applicant has not stated that the woodland in the north is priority habitat deciduous woodland. From reviewing the BNG metric, we note that the applicant has categorised this onsite woodland as 'other woodland; mixed'. However, as this woodland is a priority habitat, it should be categorised within the metric as 'lowland mixed deciduous woodland', which is a habitat of 'high distinctiveness'. We also wish to highlight that if any onsite veteran trees are to be lost to the proposals, BNG cannot be achieved as they are classed as an irreplaceable habitat. Currently, we cannot assess whether the development will achieve the mandatory minimum 10% net gain, and strongly recommend that the missing condition score assessments are submitted and that the BNG metric is finalised and includes a BNG Post-Development Habitat Plan before a decision is made.

Overall, due to the loss of priority habitats, loss of priority species (skylark) breeding habitat which has not been mitigated or compensated for, the extensive negative impacts to surrounding wildlife sites and ancient woodland, inadequate mitigation and that we are not convinced that the proposed development aligns with local policies nor will achieve the mandatory 10% net gain, KWT **strongly object** to this development. KWT will be happy to have discussions with the applicant and Swale Borough Council over these concerns.

We hope that the detail within this letter proves to be useful in your assessment of this application. Please do not hesitate to contact me with further queries.

Yours sincerely,

Emma Waller
Planning and Policy Officer
Kent Wildlife Trust
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Kent Wildlife Trust