

Date: 20th January 2023

Ref: PA/2022/2772

Site address: Land to the South of the Ashford Designer Outlet Centre, Ashford, Kent (Brompton Bikes Ltd, Project Green)



Steve Musk

Ashford Borough Council

By email only Steve.Musk@ashford.gov.uk

Dear Steve,

RE: Application Ref. PA/2022/2772 – Application for outline planning permission for up to 46,000 sqm of employment floorspace (Use Class E/B2/B8) for an ebike factory and offices, with all matters reserved except access (excluding internal circulation); and application for detailed planning permission for the change of use of land to a parkland flood storage area.

Summary:

Kent Wildlife Trust's main concerns are the discrepancies within the applicant's Defra Biodiversity Metric calculation and unacceptable loss of locally protected wildlife habitat. We believe the application has downplayed the baseline condition of the grassland and ditches within the Biodiversity Metric and are concerned at the inadequate process of the condition score assessments. We advise that further information is needed to amend the Biodiversity Metric report which should include:

- A more detailed assessment of the grassland, such as a National Vegetation Classification survey or Farm Environment Survey;
- Including Condition Assessment Criteria 6 within the grassland condition score assessment; and
- Showing how the applicant has applied the ten Biodiversity Net Gain Good Practice Principles.

We are also concerned regarding the current proposed mitigation, such as providing green roofs for ground nesting birds and the lack of mitigation against the probable contamination of river habitats onsite and further downstream, which has the potential to be long-term depending on the severity of the contamination. Before the decision stage, we strongly urge that:

- Aquatic invertebrate surveys of all onsite aquatic habitats and adjoining habitats downstream are undertaken to establish an accurate baseline condition;
- Bespoke mitigation for the contamination of onsite and offsite aquatic habitats are devised once the results of the aquatic invert surveys are known;
- Compensation for the loss of locally designated habitat is provided through the enhancement of 11ha of arable land across South Willesborough Dykes Local Wildlife Site, which will include enhancements for ground nesting birds; and
- Commit to creating functional wetland habitat within the application site, by redirecting ditches across the Local Wildlife Site and Ashford Green Corridor Local Nature Reserve to improve the wetland system.

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

Biodiversity Net Gain:

From reviewing the Technical Appendix 11.2 – Biodiversity Net Gain (October, 2022) report and Appendix I – Phase 2 Botanical Survey Results within the Technical Appendix 11.1 – Ecological Assessment (November, 2022), KWT are concerned that the Biodiversity Net Gain (BNG) report underestimates the current level of biodiversity onsite, and that the proposed habitat creation and enhancement measures will not be adequate to compensate for this loss.

The BNG report describes the baseline condition of the site to be of lower value than that described within Alex Lockton's assessment presented in the Phase 2 Botanical Survey Results, which concluded the grassland as "*a good example of an unimproved flood meadow*". The Phase 1 Habitat Survey outlined within the Ecological Assessment noted the grassland as "*Marshy Grassland*" and "*botanically it was reasonably diverse*". Likewise, within Chapter 11 –

Ecology and Biodiversity of the Environmental Statement (ES) paragraph 11.51 refers to the grassland as *“Much of this habitat type within the Study Area aligns with the Kent BAP Priority Habitat ‘Marshy Grassland’, whilst due to its close association with the River East Stour and location within the flood plain, it is also representative of the Kent BAP Priority Habitat type ‘Rivers’. In line with the approach to valuation outlines in Table 11.1 this habitat is considered to represent a viable area of habitat identified in a County BAP. This Study Area is therefore considered to be of value at the Country Level for marshy grassland.”* However, there are discrepancies within the Biodiversity Metric, which has classified the grassland as ‘other neutral grassland’, with a condition score of Moderate and Poor. We are concerned that the condition assessments of the grassland have not been undertaken appropriately, for example the comment for the grassland Condition Assessment Criteria 1 (C1) found within Appendix B of the BNG report states *“grazed so species not very clearly and easily visible”*. As stated within the Biodiversity Metric Technical Supplement, any habitats that cannot be accurately recorded should be given a condition score of ‘Good’ as a precaution. Likewise, Condition Assessment Criteria 6 (C6) has been left blank for all the grassland assessments. This should have been completed as its essential for achieving good condition scores for non-acid grassland types, and therefore vastly downplays the conditions of the onsite grassland. We urge that before the decision stage, an adequate botanical survey, such as a National Vegetation Classification (NVC) survey or Farm Environment Survey (FEP) is undertaken to inform the Biodiversity Metric.

From reviewing the Phase 2 Botanical Survey, which concludes the grassland as unimproved flood meadow and South Willesborough Dykes LWS citation, we are of the opinion that the baseline assessment of the onsite grassland should be either ‘lowland meadows’ as unimproved seasonally flooded grasslands are included in this habitat type, or ‘floodplain wetland mosaic (CFGM)’. This habitat description is soon to be published, and until this new inventory is available, the existing inventories for floodplain habits should be used, such as ‘coastal and floodplain grazing marsh’, which is defined as periodically flooded pasture, or meadow, with ditches which maintain water levels and rich in plants. KWT are therefore concerned that classifying the grassland as ‘other neutral grassland’ significantly underrepresents the quality of high/very high distinctiveness priority habitat onsite, some of which will be lost to the proposals. We therefore urge for the amendment of the Biodiversity Metric before a decision is made. As well as submitting the Biodiversity Metric, it is essential for applicants to show how they have followed the ten Biodiversity Net Gain Good Practice Principles. These ten principles set out good practice for achieving BNG and must be applied simultaneously, as one approach. The principles are often ignored; however, they are mandatory for BNG and currently we do not feel the applicant has provided enough evidence that they have been followed or met.

South Willesborough Dykes Local Wildlife Site and Ashford Green Corridor Local Nature Reserve:

The application site sits within South Willesborough Dykes Local Wildlife Site (LWS) and forms part of the Ashford Green Corridor Local Nature Reserve (LNR). The proposals will result in the permanent loss of habitat within the LWS and LNR. The protection of South Willesborough Dykes LWS and Ashford Green Corridor LNR are protected under Policies ENV1 and ENV2 of Ashford’s Local Plan 2030. Policy ENV1, which relates to biodiversity, states:

“Proposals should safeguard features of nature conservation interest and should include measure to retain, conserve and enhance habitats, including BAP (Priority) habitats, and networks of ecological interest, including ancient woodland, water features, ditches, dykes and hedgerows, as corridors and stepping stones for wildlife. [...] Development should avoid significant harm to locally identified biodiversity assets, including Local Wildlife Sites, Local Nature Reserves and the Ashford Green Corridor as well as priority and locally important habitats and protected species. The protection and enhancement of the Ashford Green Corridor is one of the key objectives of the Plan and therefore all proposals coming forward within or adjoining the Ashford Green Corridor should comply with Policy ENV2 in the first instance.”

Policy ENV2, which elaborates on development in the Ashford Green Corridor, states:

“The protection and enhancement of Ashford’s Green Corridor is a key objective. Development proposals within the identified Corridor designation (and proposed extensions) will be permitted, providing that it is compatible with, or ancillary to, their principal open space use or other existing uses, and it can be demonstrated that the proposal would not cause significant harm to the overall environment, biodiversity, visual amenity, movement networks or functioning of the Green Corridor. Other forms of the development proposals within the Green Corridor will not be permitted, unless it would be in accordance with a site specific policy in the Local Plan; or where it relates to a) the redevelopment of a suitable brownfield site or b) delivers overriding benefits, and in either scenario, that it can be demonstrated that there would be no significant harm to the overall environment, biodiversity, visual amenity, movement networks or functioning of the Green Corridor.”

Development proposals on land adjoining the Green Corridor shall provide suitable access and link to the existing movement networks of the adjoining Green Corridor wherever possible. They must not cause significant harm to any of the key features and functions and should make a positive contribution to the Green Corridor in respect of its environment, biodiversity, visual amenity, movement networks or functioning and its setting.”

KWT’s main concern regarding South Willesborough Dykes LWS and Ashford Green Corridor LNR are the direct loss of locally protected, ecologically important habitat and the dangerous precedent this might set to allow more developments to encroach within the Ashford Green Corridor and LWS. Section 15 of the National Planning Policy Framework (NPPF, 2021) 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.’

The application site is 11.46ha within a 116.5ha area of locally protected, biodiversity rich LWS, resulting in approximately 10% habitat loss/habitat degradation of South Willesborough Dykes LWS and risk of significant negative impacts to the remaining habitats such as an increase in artificial lighting, noise, dust, run-off pollution and changes in air quality during the construction phase and increase in light, noise, changes in air quality, mortality to wildlife by road traffic accidents and encroachment pressures during the operational phase. The application site also forms part of the Ashford Green Corridor LNR, which will result in approximately 30% loss of green corridor habitat, with no proposed mitigation to account for this unacceptable loss of biodiversity rich environment. KWT understand that mitigation measures such as restoration of areas of grassland and green roofs within the structural design of the building(s) will provide opportunities for ground nesting birds, however little research has been done on the potential of green roofs for providing nesting locations for birds, particularly ground nesting species. Therefore, having green roofs as mitigation for ground nesting birds is insufficient and we strongly urge better, evidence-based mitigation is provided. Likewise, we are concerned with the onsite grassland restoration, as ground nesting birds will likely be displaced by the increase in recreational disturbances. The application site is currently restricted from human access, therefore opening the site up to recreational disturbances from the public will likely cause negative impacts to ground nesting birds through noise and littering. Paragraph 11.114, ES Chapter 11 – Ecology and Biodiversity states “[...] disturbance events are likely to be limited by the accessibility of habitats within the Application Site, with human presence limited to boardwalks which will be created as part of the Proposed Development.” However, it is unclear how tall these boardwalks will be off the ground and doesn’t take into consideration the disturbances from the management and repairs of the boardwalks. There is also a lack of compelling research showing boardwalks are effective at reducing human disturbance to ground nesting birds in the UK, and that the boardwalks will unlikely reduce noise disturbance or littering.

Paragraph 11.84 of ES Chapter 11 – Ecology and Biodiversity states contamination of the river habitats onsite and further downstream will be probable and these could potentially be long-term depending on the severity of the contamination. These long-term impacts would undoubtedly degrade the ecological value of the onsite and offsite habitats, which has not been taken into consideration for the Biodiversity Metric. As contamination of aquatic habitats in locally designated wildlife areas have been predicted, we are confused as to why no detailed aquatic invertebrate surveys have been undertaken of the East Stour River, which flows through the site, or the onsite wet ditches which are part of a wider network of dykes and ditches within the Ashford Green Corridor and flood plain of the East Stour River. Dykes and ditches within floodplain wetland mosaic habitats are of special importance for biodiversity as they

support species-rich aquatic macroinvertebrate assemblages and can provide habitat for unusually high numbers of rare species. Wetlands and floodplains are sensitive to development, to water quality and quantity changes and to unsympathetic ditch management. Therefore, we urge a full conservation assessment, including aquatic invertebrate surveys (not just for white-clawed crayfish), of all onsite aquatic habitats and adjoining habitats downstream to establish a baseline condition to adequately evaluate the impacts of the development and so bespoke mitigation, habitat creation, enhancement and restoration can be devised. We urge these surveys to be undertaken before the decision stage, so plans can be amended for appropriate mitigation. The BNG report should also be amended to take into consideration the potential long-term contamination of habitats as a worst-case scenario.

We strongly object to any development that would see the permanent loss or degradation of habitat within designated wildlife sites, however we are aware of the support this application has by Ashford Borough Council. Therefore, if this development is to go ahead, we would want to see the highest standard of mitigation and compensation. As mentioned within ES Chapter 11 – Ecology and Biodiversity paragraph 11.74, without mitigation the proposals will result in significant adverse effects at District Level for Designated Sites. However, we feel the mitigation and enhancements provided within the application will not overturn the negative impacts the proposals will have on South Willesborough Dykes LWS or Ashford Green Corridor LRN, nor align with Policy ENV1 “*Development should avoid significant harm to locally identified biodiversity assets, including Local Wildlife Sites, Local Nature Reserves and the Ashford Green Corridor*”. Therefore, our suggestion to mitigate against the loss and degradation of onsite habitats would be to composite the size of the application area (11.46ha) by enhancing a minimum of 11ha elsewhere within South Willesborough Dykes LWS. This can be done by bringing areas of the LWS out of arable agriculture and put into conservation management with bespoke mitigation for ground nesting birds such as skylark, lapwing and snipe. Onsite habitats can then be enhanced further to create functional wetland, by redirecting ditches across the LWS and Ashford Green Corridor LNR to improve the wetland system. We note that Ashford Borough Council will be obtaining the long-term management of the application site. We would hope that the Council would also oversee the management of any offsite mitigation/enhancements and that this should be put into place as part of the planning permission. KWT would be happy to discuss offsite enhancements/mitigation with Ashford Borough Council, to ensure the overall increase and protection of biodiversity across South Willesborough Dykes LWS and Ashford Green Corridor LNR.

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

Yours sincerely,

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Planning and Policy Officer

Kent Wildlife Trust

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