

Tabled Update - Item 3.1
24/502717/OUT
Land West of Borden Lane, Sittingbourne

Updated BNG Metric

An updated BNG Metric was provided by the appellant during the appeal. This was not reflected within the Committee Report. It can be viewed at:

[24/502717/OUT | Outline Application \(with all matters reserved\) for erection of a care home \(Class C2\), with associated parking, landscaping and substation. | Land West Of Borden Lane Sittingbourne Kent ME9 8HR](#)

The content of this indicates that there would be 0.218ha of enhanced Traditional Orchard rather than 0.0218ha, which is the amount referred to at the third bullet point of paragraph 3.1, which was taken from another of the appellant's submissions.

Discussions with KCC Ecology.

The Appellant's Appeal Statement Appendix A (Ecological Statement of Case (including Biodiversity Net Gain Report), by The Ecology Co-Op) and updated BNG Metric has been provided to the Senior Biodiversity Officer at Kent County Council.

The Senior Biodiversity Officer has advised that the provision of buffer planting along the boundary of the site that is shared with Borden Nature Reserve is encouraged. This has been proposed to be grassland.

It has been noted that the appellant has submitted an updated BNG assessment to demonstrate that the proposal will result in a small loss of traditional orchard, but there would be a net gain of habitat units with respect to traditional orchard. The plans indicate that there will be an increase in the number of orchard trees within the site and the report details that they will be actively managed. The submission changes the baseline with the reduction of the orchard area. Having reviewed aerial photographs, it appears that the baseline used corresponds with the 2020 aerial photos and that the decline of orchard trees was pre 2020.

Representation Received.

A representation has been received on behalf of Borden Wildlife Group. This was circulated directly to the Planning Committee by the author. The representation can be viewed at:

[24/502717/OUT | Outline Application \(with all matters reserved\) for erection of a care home \(Class C2\), with associated parking, landscaping and substation. | Land West Of Borden Lane Sittingbourne Kent ME9 8HR](#)

A summary of the comments is provided as follows:

- The proposal would cause the loss of habitat for protected species.
- The proposal would significantly harm the Borden Nature Reserve, alone and in combination with other developments.
- The nature reserve has not been surveyed and so the protected species within have not been considered.

- Inadequate surveys and assessments have been provided in respect of the presence of badgers, Great Crested Newts, owls, bats and other species.
- Lighting and noise would impact on ecology, with particular reference being made to car parking areas and the hum that might be generated by the indicated electricity substation.
- The proposed mitigation measures are insufficient.
- Biodiversity Net Gain should be achieved on site and not achieving this should be justified.
- Traditional Orchards should be retained and protected as they are considered irreplaceable.
- The translocation of species is unacceptable given cumulative displacements of protected species from the area.
- Enforcement of compliance with conditions is inadequate.
- A commentary is provided in relation to the importance of a local plan in relation to ecology.

Officer Correspondance with Applicant.

In the interests of openness, it is considered appropriate to highlight that in an email exchange between the appellant and Officers it has been stated by the appellant that *“should the committee decide not to continue with either or both reasons for refusal in their entirety (i.e. options c) and/or iii)), Aspire would not pursue a costs application in relation to the withdrawn reason(s).”*

Officer Note: It is suggested that the assessment of the matters brought before the Planning Committee should be based on a planning judgement of the material planning considerations, in the interests of ensuring that the position of the Council is sound. Planning Practice Guidance states that the intention of the ‘costs’ regime within planning is to *encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay.* In itself, a potential application for the award of costs should not be a material consideration in the assessment of planning merits.