

Town and Country Planning Act 1990

Appeal by Statkraft UK Limited

Land North of Little Cheveney Farm, Sheephurst Lane, Marden, Kent TN12 9SD

Maidstone Borough Council Ref: 22/501335/FULL

PINS Reference: APP/U2235/W/23/3321094

Ecology Statement of Common Ground

Introduction

1. This document forms the statement of common ground between Statkraft UK Limited (the "Appellant") and Maidstone Borough Council (the "Council") on matters of ecology ("Ecology SoCG").
2. The Ecology SOCG sets out matters of fact and areas of agreement on ecology matters between the Appellant and the Council which are relevant to the determination of the appeal.

The Ecology SoCG is prepared jointly and agreed by the two parties.

Signed on behalf of the Appellant:

*Eversheds Sutherland
(International) LLP*

Date:

19 December 2023

Signed on behalf of the Council:



Marion Geary Principal Planning Officer

Date:

19.12.23

Background

3. Planning application reference 22/501335/FULL for "Installation of a renewable energy led generating station comprising of ground-mounted solar PV arrays, associated electricity generation infrastructure and other ancillary equipment comprising of storage containers, access tracks, fencing, gates and CCTV together with the creation of woodland biodiversity enhancements" ("**Planning Application**") was refused by the Council on 28 October 2022.
4. Five reasons for refusal of the Planning Application were given by the Council. The fourth reason for refusal ("**RfR4**") was as follows:

"(4) The proposal would cause harm to biodiversity by detrimentally impacting on ecology and physical habitats including badger and skylark habitat and potential harm from new permissive footpaths to Ancient Woodland and the Lesser Teise and is thereby contrary to the NPPF and policies DM3 and DM24 of the Maidstone Borough Local Plan 2017."

5. Following submission of appeal reference APP/U2235/W/23/3321094 against refusal of the Planning Application ("**Appeal**"), the Appellant and the Council have reached agreement on matters relating to RfR4 as set out in this Ecology SoCG.

Matters Agreed – Ecology

6. The Appellant and the Council agree that the ecology matters raised within RfR4 would be adequately addressed through the attachment to the grant of planning permission of the following four conditions:

Badgers

Prior to the erection of temporary or long-term perimeter security fencing, details shall be submitted to and approved by the Local Planning Authority. The details shall show the incorporation of badger gates/gaps in the fencing aligned with the main and outlier setts as detailed in Ecological Impact Assessment by Riverdale Ecology dated April 2023. The fencing shall be installed as approved and all badger gates/gaps retained during the construction, operation and decommissioning of the PV generating station. There shall be no soil storage bunds located between the main and outlier setts at any time.

Reason: In the interests of ecology.

Ancient Woodland

Notwithstanding the layout hereby approved, the proposed permissive path on the western boundary shall be a marked or mown route only (not a sealed or otherwise engineered surface) and shall be aligned at least 15m from the boundary with the Ancient Woodland. Prior to commencement of development, details of the alignment of the permissive path shall be submitted to and approved in writing by the Local Planning Authority.

A vegetated buffer will be maintained between the permissive footpath and the Ancient Woodland in accordance with the Drawing Number SCUKX-SHEEP-000-100P PV Layout Overview Plan comprising wildflower meadow grassland and retention of existing natural scrub directly adjacent to the Ancient Woodland. Management of the buffer will be detailed through the Landscape and Ecological Management Plan but will comprise low intensity management, specifically where directly adjacent to the Ancient Woodland, avoiding any management actions which could adversely affect the integrity of the Ancient Woodland.

Reason: In the interests of ecology.

River Teise

(This assumes agreement by Inspector of a condition for submission of an amended plan showing the revised fence alignment. Otherwise, the LPA will seek compensatory in-channel restoration to the River Teise)

No development shall take place until a scheme for the provision and management of a river buffer zone alongside the watercourse has been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme unless revised details are approved. Buffer zones must be free from built development including formal landscaping and community orchards. The scheme shall include:

- plans showing the extent and layout of the buffer zone which shall be at least 8m in width
- details of any proposed native planting scheme
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan
- details of any proposed footpaths, fencing, lighting, etc
- details of the timings of any proposed works within the buffer zone, including the development of the footpath and any future landscaping/management
- details of how any of the identified sensitive ecological features will be protected during and after works

Reason: In the interests of ecology and to avoid deterioration of water body status.

Skylark

Prior to commencement of the development, a Skylark Mitigation Strategy shall be submitted to for approval by the Local Planning Authority. The content of the Skylark Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed Skylark Plots;
- b) detailed methodology for the installation of Skylark nest plots following Countryside Stewardship Scheme option: 'AB4 Skylark Plots';
- c) locations of the compensation measures by appropriate maps and/or plans;
- d) persons responsible for implementing the mitigation measure.
- e) an annual monitoring schedule to certify the delivery of the skylark mitigation strategy for the first five years of operation
- f) a timetable for an Assessment of the Efficacy of the Mitigation Measures to be submitted for the approval of the Local Planning Authority.
- g) review, and if necessary, update of the Skylark Mitigation Strategy if indicated as necessary by the Assessment of the Efficacy of the Mitigation Measures including any need for further monitoring beyond 5 years. The Skylark Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for the lifetime of the development.

Reason: To mitigate the impact of the development on Skylarks.

7. The Council confirms that the condition above regarding the River Teise has been agreed by the Environment Agency which originally requested the condition in their September 2022 representations to the planning application (**CD2.1.4**)
8. The Council also confirms that the conditions on badgers and skylarks and the ancient woodland have been agreed by Kent County Council Biodiversity Officers. In regard of skylarks, it accords with their representations to the planning application (**CD2.1.9**).

9. The Council is satisfied that the conditions on Badgers and Ancient Woodland also accord with Natural England's representation referring to its Standing Advice **(CD2.1.25)**
10. Accordingly, the Appellant and the Council will invite the Inspector to attach the four conditions set out at paragraph 6 (as amended within any Inquiry conditions round table) in the event that he is minded to allow the appeal and grant planning permission.
11. On the basis that the Appellant and the Council have reached agreement as outlined above, the Council will no longer rely upon RfR4 in defending the appeal and hereby confirms that RfR4 is withdrawn by the Council.
12. Accordingly, the Appellant and the Council will not submit written evidence to the Inspector and will not present oral evidence to the Inquiry on matters of ecology.
13. The Appellant's ecology expert and the Council's ecology expert will be available to attend the Inquiry conditions round table as required by the Inspector to discuss the proposed ecology conditions including those proposed conditions set out at paragraph 6.