

Planning application 15/02926/OUTM applying to the Borax fields on Erith Marshes, adjacent to Crossness LNR.

27/5/2016.

Chris Rose BSc (Hons), MSc. (Zoology), [REDACTED]
[REDACTED]

ON BEHALF OF BEXLEY NATURAL ENVIRONMENT FORUM – the umbrella body for Friends of Parks and Open Spaces groups, local wildlife experts and conservationists and sustainability campaigners in the Borough. We work to protect, restore and enhance habitats and biodiversity across Bexley.

SUMMARY

Bexley Natural Environment Forum requests that the application be refused on the following grounds:

- 1)** The excessive visual intrusion into what should be an open, 'big skies' area.
- 2)** A sustained, cumulative loss of open space and wildlife habitat at Erith Marshes.
- 3)** The continuing inadequacy of the 'ecology survey' which is still missing solid information on species that are a material consideration in planning, and has not followed recommended practice in either the survey of breeding birds or of invertebrates.
- 4)** The significant loss of and impact on biodiversity, including the probable extinction as breeding species of red-listed Skylark and Ringed Plover and Schedule 1 of the Wildlife and Countryside Act 1981-listed Little Ringed Plover, for the latter two of which the fields are the only breeding site in Bexley. Skylark is also under threat of a significant reduction in numbers at its only other secure breeding site in the Borough at Crayford Marshes. Important feeding habitat for other declining bird species would also be lost.
- 5)** A significant knock-on impact on the adjoining MSINC and LNR, since these species do not recognise the fenceline between the two, and transit between the two areas.
- 6)** The total loss of flower-rich open mosaic habitat, which is a BAP habitat. There is an open mosaic habitat target for the capital in the London Plan, to which Bexley is presently making zero contribution.
- 7)** The complete lack of commitment to anything vaguely approaching adequate onsite mitigation for these losses or a promise of creating compensatory habitat elsewhere. It should be noted that the red-listed species require this type of habitat for nesting, which is not found elsewhere on Erith Marshes and is in short supply in Bexley. They can't just go somewhere else.
- 8)** Consequently, approval of the application would be contrary to the NPPF, London Plan and Bexley Core strategy policies regarding biodiversity.
- 9)** The freshwater roof run-off threat to key brackish water invertebrates.
- 10)** The loss of important open space, visual and wildlife amenity to current and future users of the surrounding area at a time when these things are increasingly being shown to be important for mental health.
- 11)** The terrible example approval would set to the many schoolchildren for whom educational events at the Nature Reserve provide a gateway to an understanding of the importance of wild places, wildlife and their conservation.

If approved, conditions must include adequate mitigation, as a minimum sufficient green and brown roofing for the possibility of continued onsite Skylark and Plover breeding. Since this is still not on the table from RRRL/Cory, then the habitat loss must be compensated for by the restoration of an equivalent area of former very wildlife-poor, preferably ex- industrial land elsewhere in the Borough, to a wildlife-rich state. This should be as close as possible to Erith Marshes or the Thames, and ideally suitable for (re-)creation of grazing marsh or open mosaic habitat.

These matters are discussed in more detail below, including why BNEF thinks the application fails the relevant policy tests and so should be refused. We then provide a list of proposed 'Conditions' that we believe should be applied should approval be given.

VISUAL INTRUSION, AND THE SUSTAINED LOSS AND FRAGMENTATION OF ERITH MARSHES

The whole of the site is a feature of visual amenity with a strong local and regional biodiversity value that has landscape characteristics associated with grazing marsh habitat; flat, open land with an adjoining network of wet ditches. The applicant proposes two four-storey sheds on the doorstep of the Local Nature Reserve that will be taller than the surrounding warehousing and further erode what should be an open, 'big skies', feel to the marshes.

In short, they will be the tallest buildings after the Incinerator facility at the east of Crossness Nature Reserve. This is defended with the claim that this '*...will offer relief from the more uniform height of the warehouse and industrial buildings to the east.*' which is just absurd spin. The applicants fail to mention that a footpath immediately to the west of the proposed 'development' site (the 'second access track') becomes part of Public Footpath 2. The proposed use of 'architectural trees' smacks of inappropriate tall and non-native species, and of further insensitivity to the flat marshland and ecological character of the area.

Our approximation of the visual impact, showing some of the other parts of Erith Marshes that have recently been destroyed or re-built upon is shown below:



The Government's Lawton Review (2010) has emphasised the importance of larger, better connected habitats to conserve and reverse the serious decline in UK wildlife, which was thrown into even clearer relief by the subsequent State of Nature Report (2013). Despite this, and the recognised importance of marshland habitat and severe loss of it within London, there continues to be a sustained fragmentation and erosion of it, most of which has happened within the last forty years or so in Bexley, with yet more of the same proposed both here and at Crayford Marshes. This is illustrated in the following graphics produced by a BNEF member from OS data and planning information. We also note that Bexley Council's leader has publicly signalled support for the destruction of a large part of Swanscombe Marshes.

THE PROGRESSIVE LOSS AND FRAGMENTATION OF ERITH MARSHES



1890



1955



1980

ERITH MARSHES. Google Earth imagery dated 2010

Bexley Council acknowledges the fact that the marshes are a highly important wildlife habitat, and has previously recognised the importance of expanding the area of such habitat, but the image above shows that this has not been reflected in planning decisions.

Yellow and red boxes: very recently or currently being lost to 'development'

Dark blue box: previous potential for habitat restoration, now lost to Incinerator until at least 2038.

Black box: near-future loss due to planning permission being granted for 'Veridion Park'

Light blue box: area recovering from temporary use by incinerator contractors, with important amounts of bare ground, nectar-rich plants and breeding Skylark and Ringed and Little Ringed Plover. BNEF asked for these areas to be designated as a SINC or part of the M041 SMINC to enlarge and buffer the LNR and to meet London mosaic habitat targets. Contrary to information that later emerged, it was claimed that no survey was possible as the Council did not have a list of 'brownfield sites'.

ERRORS AND MISINFORMATION

The application form (the version still on the Council's planning webpages on 27/5/16) wrongly states, in answer to the question *'is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, OR on land adjacent to or near the application site: a) Protected and priority species'* that the answer is 'No' when there will be such an effect on species listed in section 41 of the NERC Act (2006), which is the 'official' list of many of England's rarest and most threatened species, and those for which specific conservation actions are proposed. The relevant listed species are Skylark and Linnet. In addition the survey was inadequate to rule out the presence of/utilisation by Shril Carder Bee, also on that list, which has been found on Crossness Nature Reserve.

It fails to tick the box acknowledging that there will be an adverse effect on *'b) Designated sites, important habitats or other biodiversity features'* on *'land adjacent to or near the proposed development'*. The negative effects on the conservation/enhancement of these species from this proposed 'development' would spill over onto the SMINC.

The second ecology report that the company had to be asked to produce does say:

5.9 Question 13 of the Application Form - In light of the additional survey work undertaken, we would request a change be made to the answer to Q13 on the application form to recognise the potential for impact on ecology as set out within the attached report.

but given the nature and location of the site, an environmentally responsible company would have been expected to get this right at the outset. We are concerned that had it not been for public vigilance this claim and the first report might have slipped through with insufficient challenge.

The applicant has referred to the fields several times as 'brownfield', but they do not qualify as such according to the National Planning Policy Framework (NPPF) definition, and are therefore not a priority for 'development'. Instead the applicant's own ecological survey identified the site as comprising open mosaic, which is a UK BAP priority habitat, and as having a species-rich flowering plant sward. It acknowledges that the whole of the area of this habitat will be destroyed. There is a target for open mosaic habitat retention in the London Plan to which Bexley is currently making no contribution whatsoever.

SITE STATUS - SIZE (AND CONNECTIVITY) MATTER

We have referred to the core finding of the Lawton Review above. The fields are visually, geographically and, from a wildlife and ecological point of view, functionally part of that small fragment of Erith Marshes, a Site of Metropolitan Importance for Nature Conservation, that Bexley Council has repeatedly stressed is of high value and that it has invested significant resources into in the recent past.

This applicant peddles the usual self-serving reductionist approach last seen over Erith Quarry, in which the supposed biodiversity limitations of the site, not the potential (except potential for concrete-pouring) are highlighted and makes the same statement that the site will degrade if not managed, claiming that the only answer to that is to let it build on most of the site and leave a fragment around the edges. This is tantamount to blackmail rather than being a credible argument, and conveniently ignores the scope for volunteer management and the fact that a number of SMINCs in the Borough are largely volunteer-managed from a habitats point of view.

The second ecology report continues to ignore or dismiss the ecological continuity with the SMINC/LNR and fails to take into account the cumulative effects and the wider conservation status in Bexley of any species concerned. It claims that there is confusion amongst objectors as to the status of the land. We know full well it's not within the SMINC or LNR and have never said otherwise, but that is not the central issue from which the applicant clearly wishes to deflect attention. We submit that they are the ones confused about the environment, wildlife and conservation of the same by pretending that there is somehow some kind of Berlin wall between the fields and the SMINC/LNR, and that what they do on their patch will have zero or minimal impact on these sites. This is patently untrue.

Our contention that the fields are an important integral and interdependent part of the SMINC is supported by the fact that they sustain the breeding and feeding of species of major conservation concern that are listed in the Erith Marshes SMINC citation, and also by the applicant's acknowledgement at 2.7 of the second ecology report that:

The Site was suggested by the London Wildlife Trust in 2013 for inclusion within the Erith Marshes Area of Metropolitan Importance for Nature Conservation. However, this was rejected by the London Borough of Bexley in favour of maintaining its status as an employment site.

Contrary to LWSB guidelines, Bexley Council never discussed this with stakeholders.

SERIOUS FLAWS IN THE ECOLOGY SURVEYS / REPORTS

The applicant's first ecological survey, which was only conducted on one day in September, and another in October 2015, was wholly inadequate. Bexley Council rightly asked for more work to be done on this, but the second attempt repeats key failings.

Consequently the utilisation of the site for breeding and feeding by key bird species has been ignored, or passed off as merely a possibility, when it is a known fact. Appendix A of the second survey document states that

2.1 A breeding bird survey began in March 2016. A total of three survey visits have been completed and are reported upon herein.

2.2 A standardised Breeding Bird Survey (BBS) methodology was used as the basis for the survey, with three survey visits made during the bird breeding period. The three completed breeding season visits to the study area took place on 31 March, 8 April and 18 April 2016.

What 'As a basis' actually means is that what was done does not comply with British Trust for Ornithology/JNCC/RSPB Breeding Bird Survey guidelines. This states that the following methodology is required:

March - Optional reconnaissance visit to set up or check transect route and access.

Early April – mid May Early season BBS visit.

Mid May – late June Late season BBS visit, at least four weeks after your Early visit.

The report goes on to admit that:

3.2 Given the early stage of the breeding season it has not yet been possible to confirm breeding by any of the species recorded so far.

The reality is that two red-listed species and one Schedule 1 species nest on the fields and site and nowhere else on Erith Marshes and other red and amber-listed species forage there. The report therefore fails to include definitive information that is a material consideration in planning and resorts instead to supposition about what is and is not breeding, in what numbers and what the predator impacts are.

The invertebrate survey work done so far falls well short of the recommendations of Buglife (Open Mosaic Habitat Survey Handbook, 2013), supported by DEFRA, NE and the JNCC, regarding open mosaic habitat, despite it being well known that such habitat can be of major importance for these species along the 'Thames Gateway' area. This states that 'May to late September is crucially important for many invertebrate assemblages, within which there should be at least two main survey periods (e.g. May to June and August to September). Visits outside of this period can be useful for targeting further survey, but are not adequate to determine importance for invertebrates.' Moreover key areas within a site are supposed to be mapped.

The Shrill Carder Bee, *Bombus sylvarum*, has been recorded at Crossness since 2012. This species has undergone a rapid decline and is now largely confined to only 5 remaining meta-populations in the UK, with the 'Thames Gateway' being a critical area. It is probably Britain's rarest bumblebee and a BAP priority species. The Borax fields provide an important nectar-rich area that the species could expand onto and build numbers if it is not present there already. The survey work so far has been insufficient to rule out present or potential future utilisation of the fields by this species.

Stating that there will be further surveys down the line is not acceptable when an outline plan could be passed that is of itself too inflexible to allow for sufficient changes to protect what is later found to be present.

THE WILDLIFE IMPORTANCE OF THE FIELDS

The fields are one of only 3 or possibly 4 breeding sites for the red-listed Skylark in Bexley, a UK BAP species upon which public money is being spent elsewhere in the country to try and recover numbers. Indeed the Skylark is included in the UK Government's wildlife indicator of sustainability. In this context it should be noted that Bexley Council's own Core Strategy purports to be all about delivering sustainability. Only the fields here and at Crayford Marshes now provide reasonably secure nesting sites. Both now have hostile planning applications hanging over them. The other two sites have perhaps one or two pairs, all at risk from disturbance by walkers and their dogs. If Bexley votes through both these applications the Skylark could be at risk of extinction as a breeding species in Bexley.

The fields also support the only breeding Ringed Plover (red-listed) and Little Ringed Plovers (Schedule 1 of the Wildlife and Countryside Act 1981) in Bexley, as well as providing foraging areas for Barn Owls at their only Bexley breeding site, Linnets (red-listed) for which Erith Marshes is by far the most important site in the Borough, the amber-listed Kestrel which breeds at Crossness and the Snipe (amber) which is in serious decline in the UK and declining across Europe, in large part due to habitat loss. This information is in the public domain in Friends of Crossness Nature Reserve Newsletters, on the 'Bexley Wildlife' website and in the SINC review document. This information could also have been obtained simply by communicating with the Nature Reserve Manager.

The applicant's ecology report states that:

3.8 Whilst suitable foraging habitat may be present on-site for Barn Owl and Kestrels, this is of poor quality and small in extent. Given the extensive foraging range of both species and the availability of other suitable habitat in the area, the loss of such habitat is not considered significant.

Had they spent any serious amount of time watching the area they would have noted, as the local birdwatchers have, that the breeding Kestrels are often foraging over the two fields. Contrary to their claim much of the rest of the area is fairly closely grazed fields, narrow steep-sided ditches and reedbed, which are not quality Kestrel foraging habitat and probably the same with Barn Owl. No doubt every time some other bit of Erith Marshes was put up for building on the developer said that part was 'insignificant'. The result of believing that can be seen clearly in the maps above.

THE RARER SOMETHING IS IN BEXLEY, THE LESS IMPORTANT IT IS TO PROTECT IT, AND THE MORE LEGITIMATE IT IS TO WIPE IT OUT (SAYS RRRL/CORY)

Ecology report again:

4.33 In conclusion, the Site lies outside areas of nature conservation designation. The Proposed Development will result in the loss of Open Mosaic habitat which currently supports only a small population of breeding birds of a very limited range of species and is of local interest for invertebrates. Such loss is not considered to have a significant impact on the population or conservation status of protected or priority species.

In other words the rarer something is in the Borough the less important it is to conserve it here. In fact it's not worth bothering to try. This is wrong-headed idiocy. The whole purpose of having conservation targets and biodiversity action plans up and down the country is precisely so that everyone doesn't destroy their own small part and leave us with severely diminished populations in a few 'core' places, or none at all. Since Bexley Council states in Core strategy CS18 that it intends to 'protect and enhance' biodiversity in the Borough and avoid significant impacts we say this must be measured and put in the context of the London regional and Bexley Borough level picture, not just national. The logical consequence of doing otherwise is that Bexley Council only protects a species heading for extinction in the UK, the entire population of which is so small that the majority of it is to be found within the Bexley boundary. This would be absurd and fly in the face of everything conservation policy is trying to achieve. There are thought to be perhaps 200 Skylark breeding territories in the whole of London (LNHS data for 2014) and only 13 across 5 sites in south-east London/Kent out to 20 miles from St Paul's cathedral, most of which fall outside the London administrative boundary.

In our opinion this land is therefore of huge importance in maintaining the biodiversity of the Erith Marshes SMINC, not just in terms of the tick-list of species found across it, but the survival of a number of species of high conservation concern as breeding species both here, in the Borough as a whole, and at London and (in the case of the Shril Carder bee) national level. We submit that Skylark, Ringed Plover and Little Ringed Plover would be lost from Erith Marshes/Crossness as breeding species, and their status as breeding species in Bexley would be compromised or terminated if this 'development' is approved. The flaws in the ecological survey contribute to the failure to recognise this.

LACK OF MITIGATION OR COMPENSATION

The report states:

4.34 To mitigate and compensate for this loss, additional mitigation measures are proposed in the form of a living green wall on the western façade facing the Crossness Nature Reserve and the maintenance and management of an undisturbed buffer zone of five metres to the ditches and dykes surrounding the Site.

Whether as a consequence of the incompetence evident in the way the survey appears to have been commissioned from a timing point of view, or an uncaring arrogance, no credible 'mitigation' – nor compensation - is proposed to 'offset' the particular negative outcomes highlighted above, including for red and amber-listed bird species. The excuse for this is that they are 'insignificant. Apart from the 'green wall' the 'mitigation' package such as it is merely proposes leaving a small fraction of the site undeveloped, with some suggestions about ditch maintenance and grass-cutting, the claimed biodiversity benefits of which are not quantified. There is a reference to this allowing the survival of 'certain' unspecified bird species, but not the ones of greatest conservation concern. As usual with 'mitigation' proposals coming to Bexley Council with planning applications, no empirical evidence is presented to back up any claimed outcomes. This is just not good enough, and if accepted will be a failure of Bexley Council to properly act upon its legal duty to take into account the impact on both species and populations. Given Bexley Council's proven inability to deliver on its relevant policy objective in regard to industrial buildings near the Thames, see:

<http://www.bexley.gov.uk/CHttpHandler.ashx?id=9517&p=0>

which calls for brown roofs on new 'Industrial buildings anywhere, *but especially close to the River Thames*'. then leaving the imposition of some unspecified amount of green/brown roof, only vaguely suggested by the applicant, to a planning committee meeting, is just not acceptable, given that this is probably the only way to just maybe retain breeding Skylark and Plovers on site.

We are heartily sick and tired of people coming into our Borough telling us our wildlife is pretty worthless, and in any case can be shovelled into some small remaining corner of a site, that this will be ample mitigation and there will be no negative impact of any importance from their shiny new 'development'. Needless to say they don't go to the bother of producing any empirical evidence to substantiate this claim. We want to be able to see Skylarks in Bexley until our dying days, and for our descendants to be able to do likewise. We do not want to be told by Bexley Council, 'developers' or paid 'ecologists' that we can go on a 50 mile trip to somewhere else if we want to carry on doing so. We note that the picture on page 9 of the Design and Access Statement 27.11.15 is not a picture of a typical ditch. This is an example of the classic corporate tactic of trying to present important wildlife areas as some kind of neglected rubbish dump, as was done at Erith Quarry.

NATIONAL BIODIVERSITY CRISIS: DOES BEXLEY COUNCIL AND RRRL PARENT COMPANY CORY 'ENVIRONMENTAL' WANT TO MAKE THINGS BETTER – OR EVEN WORSE?

A succession of reports have shown that there is a national (State of Nature 2013) and international biodiversity crisis. This crash in bioabundance is not going to be rectified by approving the destruction of ever more wildlife habitat. The Lawton Review 2011 showed that size matters, so instead of chipping away at what's left of Erith Marshes, the Council should be protecting and enlarging it by looking for growth opportunities when old industrial sites adjacent or near to it become available. Indeed **an earlier Bexley BAP included the objective to 'Identify and designate appropriate areas adjacent to existing grazing marsh for re-creation of this habitat.'** This disappeared from the 2010 -2015 version, but now that this document requires reviewing and updating, we will press for this to be put back. In the light of this we wish to be told who is responsible for the failure to impose a s106 agreement to put the fields into the SMINC as part of the conditions for allowing the incinerator, or at least pressuring the Government to do so when it went to appeal. Moreover, Bexley's Core Strategy (2011) states that the amount of land required for industrial purposes in Bexley would henceforth fall, so isn't it high time this was reflected in the release of land back to biodiversity?

LIGHTING

The duration of external night lighting is of significant concern, and the compounding impact of yet more of it on an already badly light polluted area, in part thanks to the Incinerator, is ignored. The second ecology report says that certain aspects of the lighting regime will be dealt with at a future stage in the planning process, but fails to mention the impact on wildlife of the precise spectra emitted. Blue light from bright white fittings, including energy-saving LEDs, is the most biologically disruptive.

GROUND CONTAMINATION

In the application form the answers to the questions

Does the proposal involve any of the following?

If yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated?

Land where contamination is suspected for all or part of the site?

has been given as 'No' in each case, which is inconsistent with the applicant's own 'PRELIMINARY GEO-ENVIRONMENTAL RISK ASSESSMENT', the Executive summary of which states that:

It is possible that contaminants within the Borax residue, and within any Made Ground at the Site, have leached vertically in to groundwater or laterally into surface water drains, with the potential to impact Controlled Waters and ecological receptors including the neighbouring Crossness Nature Reserve, and the River Thames. Offsite land uses also have the potential to have contaminated the Site via lateral migration below ground.

During the redevelopment there is the potential for contaminants in soil to affect off-site receptors, including people working in neighbouring properties and people visiting the Crossness Nature Reserve. Once it is complete there is the potential for contamination to affect site users (workers and maintenance staff).

The presence of organic material in the Made Ground, peat and alluvium has the potential to generate ground gases (including methane and carbon dioxide), which could migrate into future buildings and pose an explosive/asphyxiation risk.

In other words, contamination is suspected.

JOBS

We note that this appears to be another 'development' in this part of the Borough that provides a low job density per square metre, contrary to the Council's employment objectives as enunciated by Bexley planning officer Mark Egerton in a face-to-face meeting with us in early 2015.

ENERGY ISSUES AND THE SUSTAINABILITY CLAIM

Like every other proposed 'development' these days, this one is painted as 'sustainable', which is more (incinerator) smoke and mirrors. It is admitted that its purpose is essentially to boost 'economic growth' in a country already using three times more resources than is actually sustainable in a real sense. It is absolutely not about reducing our net impact on the environment, which is what is needed at root to start reversing the national and global biodiversity crisis. According to the figures in the energy report the saving in CO2 emissions from using waste energy from the incinerator, as opposed to from gas boilers and grid electricity, is about 4.7% year in, year out, but this is simply adding to net emissions at a smaller rate than might otherwise be the case. There can only be a net reduction on the way to hitting the London Plan climate target of a 60% reduction over 1990 levels by 2025 if facilities with emissions totalling more than the proposed data centre might produce are now taken out of use.

The existing documentation repeatedly refers to the potential for any data centre to use CHP, but lacks a binding commitment and claims, without any evidence that this could lead to a wider roll-out of combined heat and power in the area. Given that the incinerator is due to close in 2038 we wonder whether the lifespan is sufficient to make this a realistic possibility. Moreover, the applicant states that 'A Data Centre use has an inherent high energy requirement. It is required to operate continuously and have a security of supply in the form of backup provision and duplicate sources of energy and operating systems.' In other words the CHP set-up would not be enough on its own anyway, and then there's the issue of where multiple sources are coming from once the incinerator shuts down.

FAILURE TO PASS RELEVANT POLICY TESTS

NPPF 1.14 "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

• if significant harm 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, if approved, will diminish biodiversity in relation to the presence and breeding status at Erith Marshes and in Bexley of species of significant conservation concern, and UK and London priority habitat. No alternative 'development' site is proposed by the applicant, there is no adequate on-site mitigation for these impacts and no proposal for off-site compensation of any kind. **Planning permission should therefore be refused.**

Other policy 'tests' not met include the following. Relevant provisions are underlined:

The London Plan (2011, 2015)

Policy 7.19 *Biodiversity and Access to nature:*

C: Development proposals should:

a wherever possible, make a positive contribution to the protection, enhancement, creation and management of biodiversity

b prioritise assisting in achieving targets in biodiversity action plans (BAPs) set out in Table 7.3 and/or improve access to nature in areas deficient in accessible wildlife sites

c not adversely affect the integrity of European sites, and be resisted where they have significant adverse impact on European or nationally designated sites, or on the population or conservation status of a protected species, or a priority species or habitat identified in a UK, London or appropriate regional BAP or borough BAP.

E: When considering proposals that would affect directly, indirectly or cumulatively a site of recognised nature conservation interest, the following hierarchy will apply:

1 avoid adverse impact to the biodiversity interest

2 minimize impact and seek mitigation

Bexley Core Strategy (2012)

Policy CS18 *Biodiversity and geology*

The Council will protect and enhance its biodiversity by:

b protecting, conserving and enhancing Bexley's Sites of Special Scientific Interest (SSSI) and Sites of Importance for Nature Conservation (SINC):

c resisting development that will have a significant impact on the population or conservation status of protected species and priority species as identified in the UK, London and Bexley Biodiversity Action Plans;

These issues have been discussed in detail above, where we have explained why we think the determination of 'significant' must be set within a Bexley context. Consequently the lack of any credible biodiversity enhancements arising from this application, and the lack of anything approaching adequate mitigation or off-site compensation means it should be rejected.

The fact that the fields are (mistakenly, in our view) zoned for industrial use does not exempt the application from these tests.

We further note that the Cory Environmental Trust in Britain, which is inextricably linked to RRRL hands out grants for:

DA - Protecting the environment, and conserving or promoting biological diversity

We submit that the application is contrary to both the Trust's objectives and the wider claim that at 'Cory Environmental the environment is not only in our name it's also at the heart of everything we do.'

OUR POSITION - PRINCIPLES

1). The Council should seek to prevent this development on this site.

REASON: 'Development', inter alia, contradicts Bexley's LDF Policy CS18 on Biodiversity and geology which states that the Council's policy will be one of:

c) resisting development that will have a significant impact on the population or conservation status of protected species and priority species as identified in the UK, London and Bexley Biodiversity Action Plans;

and is contrary to its BAP policy objective of wanting 'to protect and enhance Bexley's grazing marsh to ensure this wealth of wildlife continues to thrive.'

We believe that this requires expanding, and not contracting, the total area consisting of this habitat, including any important associated mosaic habitat utilised by species on the grazing marsh. We believe that the rarer something is in Bexley, particularly when it is in serious national decline, the more protection it should be given locally, not less, and that the logic of having a Bexley Council biodiversity policy is to protect and enhance the list of species and their populations within Bexley itself as a positive contribution to the national and regional picture.

If the Council fails to do so:

2) The amount of land loss should be limited to as little as possible, including minimising the wastage of space on parking and other hard surfacing. 'Mitigation' should include sufficient brown and/or green roofing.

3) Given that insufficient mitigation is proposed to offset the negative impact on red-listed/BAP species, and there is a net loss of open ground, we expect compensatory off-site habitat to be created within the Borough, in an area that is exceedingly low in existing wildlife value or is largely hard-surfacing, so as to deliver no net loss of wildlife land and a net increase in relevant biodiversity.

4) Visual amenity should be taken into account, including protection of what should be the 'big skies' feel of this marshland site looking east from the nature reserve, and any structures should be rendered as unobtrusive as possible.

5) Access to the nature reserve and horse paddocks from Norman Road should not be compromised, and there should be no net loss of wildlife habitat in maintaining said access over and above what is already devoted to the existing trackway. Granting this planning application would put the nature reserve's vehicle entrance and access road in the middle of the two proposed development areas, further increasing the hemmed-in feeling that surrounding developments are creating.

OUR PROPOSED CONDITIONS

Should any 'development' be recommended by officers, and approval be granted, the following conditions should apply:

1) For the purposes of accountability and transparency we would expect a statement about wildlife impacts from the Biodiversity Officer, in which any claim is properly documented along with citations as to the peer-reviewed evidence used to support it. In particular, the alternative places where displaced individuals of species of conservation concern can thrive and breed, must be identified and named. It should be made clear the basis upon which they are expected to be accommodated adequately at some other site, which may already be at carrying capacity.

We will expect a statement as to why diminution of breeding status, leading towards the potential loss of such species, both at Erith Marshes, and in the Borough of Bexley as a whole, is seen by the Council as a desirable objective.

REASON: Bexley Council is legally required to take biodiversity into account in reaching planning decisions. Biodiversity includes populations (bioabundance) in DEFRA guidance. Making decisions on the basis of unsubstantiated claims that there will be no loss does not, in our view, amount to taking it properly into account. The Biodiversity Officer will also need to explain why it is that at a time when Skylarks are in severe decline and the subject of government (i.e. taxpayer) funding to try and arrest this under agri-environment schemes, Bexley Council perversely believes that their habitat, and with it the future of the birds themselves, are considered expendable in our Borough.

2) The loss of wildlife land should be minimised and any 'development' consolidated to this end, subject to visual amenity issues in point 6 below. The positioning of structures and infrastructure should be such as to maximise the contiguous amount of land sharing the longest possible border with the remainder of Erith Marshes. Buildings should be as close to Norman Road as possible, subject to the 5m buffer to ditches for Water Voles, and not set back behind a swathe of hard surfacing, which should in any case be minimised, and only consistent with absolutely necessary hard-standing/roadways/pathways and/or capture of any polluted run-off, such as vehicle oil residue, for transit to appropriate treatment facilities.

REASON: To minimise the loss of wildlife habitat and ensure that whatever is left is as contiguous as possible within the remainder of the fields themselves, and with the adjoining marshland, and is not unnecessarily fragmented as well as being readily accessible to ground-dwelling species. To minimise impacts on the European Protected Water Vole which breed in the immediate vicinity, itself a LB Bexley BAP species.

3) Notwithstanding any condition about green/brown roofs or walls, which would also stop or slow freshwater run-off which could compromise brackish water invertebrates identified in the adjacent ditches, the loss of wildlife land arising from any development shall be compensated for by the restoration of an equivalent area of former industrial land elsewhere in the Borough that is largely hard surfacing, to a wildlife-rich state. This should be as close as possible to Erith Marshes, and ideally be suitable for (re-) creation of grazing marsh or mosaic habitat. **REASON:** To halt the net loss of high quality wildlife habitat in the Borough, support the Council's BAP in relation to grazing marsh and other key biodiversity objectives and to satisfy the NPPF requirement of attempting to avoid biodiversity loss and deliver net biodiversity benefit from 'development'.

4) The existing vehicular access to the nature reserve and horse paddocks from Norman Road should be retained. Any access to the fields for 'development' should be off of Norman Road, and not the Thames Water-owned nature reserve and works access track. **REASON:** Access for the nature reserve site manager, volunteers, wildlife observers and casual visitors to that part of the marshes north of Eastern Way, as well as emergency access and egress for Thames Water STW personnel, and Environment Agency access to maintain the Great Breach Pumping Station. The Council continually declines to condition car free developments in the Borough - even where a site is close to bus routes and railway stations - claiming that public transport is too poor. Since the nature reserve is a planning condition of the extension of Thames Water's Sewage Treatment Works, it would be perverse if the Council now allowed it or any 'developer' to prevent private vehicular access and by its own definition make it hard to get to. In addition, loss of wildlife land on the fields should not be compounded by the construction of some additional roadway elsewhere.

5) There should be a financial contribution to restoration of adjoining ditches along Norman Road and its water-holding capacity, and to the Marsh Dykes Catchment Improvement Project to fund grazing marsh habitat improvements elsewhere on Erith Marshes. As with the developments on the old electricity sub-station site there should be a minimum of a 5m buffer zone between any ditch and the perimeter of any 'development'.

REASON: To attempt to 'offset' inevitable biodiversity losses resulting from the 'development' and support, inter alia, the Council's Water Vole and Reedbed BAPs.

6) We would wish any buildings to be as low as possible, with a maximum height when viewed from the Crossness Nature Reserve Protected Area fenceline that appears to be the same as that of the roofline of the sheds on the east side of Norman Way. **REASON:** To minimise impact on visual amenity and the skyline of the remaining northern fragment of Erith Marshes, which should be a large, 'big skies' piece of open space.

7) A sufficient roof area of any building(s) approved should have a green roof to allow the possibility of Skylark nesting. If the two buildings are approved one should have a green roof and the other brown (for Plovers and open-mosaic insects). However, it shall be the responsibility of the applicant to produce data that 'proves' that an adequate area of suitable habitat is going to thereby be created for these purposes, otherwise additional off site compensatory habitat should be conditioned. Such roofs/walls should be allowed to colonise with vegetation already present in the immediate surrounding area through natural seeding, and not planted with 'exotics'. **REASON:** To provide at least some on-site replacement 'habitat' for that lost at ground level. Skylarks are known to have bred on vegetated roofs in the UK. It is also the policy of Bexley Council to seek such roofs on industrial buildings near the Thames, a policy which it has disappointingly failed to get implemented anywhere.

8) There should be appropriate vegetation within the site, preferably allowing natural colonisation by species from the seedbank and adjoining marshland, including ruderal species, and the leaving of patches of bare ground, rather than simply sowing a monocultural sward of a grass species such as Perennial Rye. Any screening trees or shrubs should not be very tall and should be of local provenance and grown in this country, not a motley collection of incongruous 'easy-care' evergreen exotics as implied by some of the 'designer' pictures. Having raised concerns about possible predator impact on nesting birds, the applicant will not want to be planting tall trees to obscure its tall building(s), as these will provide perches for more predators. **REASON:** Maintenance of suitable vegetation and mosaic conditions so that at least some of the invertebrate fauna may survive. Ecological congruence with the surrounding area. Visual amenity. Saving resources and reducing carbon costs.

9) Light pollution should be miniscule with the bare minimum of external lighting. It should be confined to the Norman Road facade as far as possible, apart from any very small amount of safety/security lighting on other sides. It should be motion-sensor triggered and only manually turned on when absolutely needed. Lighting should be directed wholly downward, onto low reflectivity surfaces, and only of an intensity necessary for safety purposes. Amber LEDs should be used for bat-friendliness and in any case light in the blue part of the spectrum avoided. **REASON:** To avoid adding to the grotesque amount of light pollution already generated by the incinerator and existing warehouses along Norman Road. Avoiding blue-spectrum light will minimise light pollution encroachment further onto the marshes, a known Bat and Barn Owl habitat, because blue light scatters further than red. It is also the most biologically disruptive after dark. Barn Owls have bred on Norman Road Field, just 200-300m south-west of the proposed development and are a Schedule 1 species.

10) All fencing around the site needs to be permeable to a range of wildlife, including ground-dwelling species. **REASON:** To maintain habitat connectivity between the LNR, ditch corridors elsewhere and the so-called buffer/'mitigation' habitat around any new buildings on the fields.

11) The buildings should be designed to accommodate artificial Swift and House Martin nests, which should be fitted AND monitored (and then repositioned if necessary if not initially used). **REASON:** Both species forage over Erith Marshes. House Martin is amber listed and in danger of being lost as a breeding bird in Bexley due to destruction of nest by homeowners at the main existing nesting sites.

12) Any 'development' should result in a sustained net reduction in carbon and other polluting emissions compared with current Bexley Borough levels, including the carbon costs of construction, operation and lifetime traffic generation. Otherwise the Council should produce figures and evidence explaining where else in the Borough sufficient cuts required to negate any increase will be made. **REASON:** The Climate Change Act established a target for the UK to reduce its emissions by at least 80% from 1990 levels by 2050.

13) Any further assessment of ground contamination must be timed to take place outside the breeding season of known ground-nesting species of conservation concern using the site. Any such investigation should return the site to its current condition. **REASON:** Adherence to national legislation on the protection of nesting birds, and the avoidance of destruction of eggs and/or young of species in serious decline at UK level. Avoiding prejudice to future wildlife use should final planning permission not be granted or the 'development' not go ahead for some other reason.

14) All construction work or any other activity that would disturb breeding birds on the fields should take place outside the bird breeding season as per condition 32 for the adjoining Rubbish Incinerator:

<https://www.og.decc.gov.uk/EIP/pages/projects/RiversideDecisionConsent.pdf>

REASON: Adherence to national legislation on the protection of nesting birds, and the avoidance of destruction of eggs and/or young of species in serious decline at UK level.

15) Condition 50 of the Incinerator consent effectively set a working life of 27 years from the date of commencement of operation of the incinerator, which is now 22 years away in 2038 (operation of the plant commenced sometime in 2011

<http://www.coryenvironmental.co.uk/downloads/Cory%20RRR%20leaflet.pdf>)

and required that on or before that anniversary a scheme be submitted to Bexley Council for the restoration and aftercare of the site, including proposed future uses of the site and demolition of existing structures.

We request that the same condition is put on any 'development(s)' on these fields. If it is an ancillary 'development' reliant on the Incinerator in some way, it may well shut down at the same time. If it is not then the expiry date set should reflect that, but ensure that whoever the owner/s is/are at closure remains subject to the condition.

REASON: So that the site is not simply left in a state of decay upon closure, and that at the same time the opportunity arises to have an informed reassessment of the argument in favour of rebuilding the size of marshes. It is likely that the biodiversity conservation situation will have got even worse by then, helped in part by any approval that Bexley Council gives to this and other such schemes on or adjacent to SINCs. In addition, we are told in the Core Strategy of 2011 that the amount of land required for industrial purposes in Bexley would hence forth fall, and it is not a suitable site for housing.

_____ ENDS.

"What would the world be, once bereft
Of wet and of wildness? Let them be left,
O let them be left, wildness and wet;
Long live the weeds and the wilderness yet"

Gerard Manley Hopkins.
From 'Inversnaid' 1881

