

Ecology Practice

Rebuttal of Mark Morgan (for the Applicants) on the Topic Statement for Ecology

Call-in by the Secretary of State of an application made by Omega St Helens Limited / TJ Morris Limited

Land To The West Of Omega South & South Of The M62, Bold, St Helens

LPA REF: P/2020/0061/HYBR

PINS REF: APP/H4315/V/20/3265899

CD XX.X

April 2021

1 Introduction

1.1 Personal Statement

1.1.1 This rebuttal has been prepared by Mark Morgan on behalf of the Applicants) with regards to matters of Ecology. A full witness statement can be found in paragraphs 1.1.1 – 1.1.5 of the Proof of Evidence of Mark Morgan for Ecology (CD 38.6).

1.2 Scope of Evidence

1.2.1 This rebuttal has been prepared following my review of the *Ecology and Biodiversity Topic Statement* prepared by St Helens Borough Council (CD 39.7) (“the Topic Statement”).

1.2.2 The Topic Statement confirms under paragraph 1.1 that:

“Topic Statements have been prepared to inform the Secretary of State on the matters identified in the Inspector’s case management notes which are not addressed in the Council’s main proofs of evidence. This Topic Statement is concerned with ecology and biodiversity.”

1.2.3 The Topic Statement includes reviews from the following consultees:

- Merseyside Advisory Environmental Service (MEAS)
- Natural England
- The Council’s Countryside and Development Officer
- Other Representations

1.2.4 The scope of this rebuttal is to provide additional clarifying information on that Topic Statement and should be read in conjunction with Proof of Evidence – Ecology by Mark Morgan (CD 38.6), Summary Proof of Evidence – Ecology by Mark Morgan (CD 38.6A) and Appendices 1-18 to PoE Mark Morgan – Ecology (CD 38.6B).

2 Review

2.1 Topic Statement Introduction

2.1.1 Paragraph 2.3 of the Topic Statement introduction states that:

“The proposal will cause habitat loss, habitat fragmentation, pollution and disturbance of important species along with permanent loss of woodland and tree cover and damage to trees covered by Tree Preservation Orders.”

2.1.2 There is no evidence that the proposals will cause pollution and pollution is not treated as a constraint within the ES Chapter 09: Biodiversity (CD 33.57) or within the Proof of Evidence by Mark Morgan on Ecology (CD 38.6).

2.1.3 Paragraph 2.4 of the Topic Statement introduction states the following:

“The mitigation proposed is as follows:

- *A newly planted woodland within the north west of the site referred to a ‘Green Wedge’,*
- *Pond and attenuation features*
- *Replacement hedgerow and bat boxes.”*

2.1.4 This item should be expanded upon to show the full extent of mitigation proposed as detailed within Section 4.2 of the Proof of Evidence by Mark Morgan on Ecology (CD 38.6). Mitigation has followed the mitigation hierarchy of avoid, mitigate and compensate in the following manner:

2.1.5 The scheme **avoids** Booth’s Wood Local Wildlife Site, Plain Plantation, part of Duck Wood, and Ponds H and BWP¹. On-site **mitigation** includes ~8.35ha of woodland planting, ~2.19ha of ponds & attenuation features, ~2,978m of hedgerow, ~7.12ha of species-rich and wet grassland, and bat and bird boxes^{1,2,3,4}. Most mitigation is proposed within the ‘Green Triangle’, in addition to Unit 1 detailed landscaping and outline/infrastructure landscaping areas.

¹ ES Chapter 09 (CD 33.57)

² Proof of Evidence of Mark Morgan on Ecology (CD 38.6), items 4.2.4 – 4.2.10

³ Biodiversity Metrics (CD 33.179; CD 33.180)

⁴ Amended Metric Calculations (CD 33.181)

2.1.6 Additional off-site **compensation** is required and is secured under a S106 agreement which commits to a minimum of 9.4ha of off-site woodland planting (to put woodland in a net gain position) and prioritises habitat development (creation or enhancement) in accordance with local policies and initiatives within the Bold Forest Park and the Mersey Forest Plan. Compensation is to be delivered by the Mersey Forest Foundation over a 32-year period.

2.2 Review by MEAS

2.2.1 In full, paragraph 3.3 of the Topic Statement review by MEAS, states the following:

“The proposed development scheme will result in significant woodland and tree loss (5.6Ha). The proposed development would also result in the loss of additional existing Priority habitat in the form of an additional seven ponds and 770m of hedgerow in comparison with that anticipated by the proposed allocation in the emerging Local Plan. Pond and hedgerow losses will be mitigated through replacement hedgerow and habitats. Whilst replacement woodland is proposed, additional off site woodland creation would be required to fully mitigate for the loss. In addition, timescales in any woodland planting reaching maturity are considerable.”

2.2.2 Paragraph 3.3 of the Topic Statement review by MEAS accurately refers to woodland and tree loss as ~5.6ha. However, it should be clear that of the ~5.6ha of woodland and tree loss, ~4.2ha^{3,4} is priority woodland covered by TPOs (requiring 2:1 replacement under local policy CQL 2). The remaining ~1.4ha is non-priority scattered tree loss⁴, as detailed within paragraph 3.3.2(i) of the Proof of Evidence by Mark Morgan on Ecology (CD 38.6).

2.2.3 Paragraph 3.3 of the Topic Statement erroneously refers to the loss of 770m of hedgerow. As detailed under paragraph 3.3.2(iii) of the Proof of Evidence by Mark Morgan on Ecology (CD 38.6), hedgerow loss totals ~534 m^{1,3,4} across the entire site.

2.2.4 Paragraph 3.3 refers to timescales for woodland reaching maturity are considerable. While I do not disagree with this statement, it should be made

clear how timescales have been considered in compensatory woodland planting. The biodiversity metric takes account of the difficulty to create woodland habitat, the associated risks, the time to reach the target condition and the proximity of habitat creation in relation to the impact site. As high-quality woodland is difficult to create and takes decades to reach its target condition, a lower number of Habitat Units are achieved when creating this habitat type. To compensate effectively, a greater area of woodland needs to be created to allow for these constraints and to reach the desired number of Habitat Units. This results in the on-site mitigation and off-site compensation for woodland far exceeding in area, that to be lost on site, with timescales being fully taken into account. In addition, ES Chapter 09: Biodiversity (CD 33.57), under Table 9-7, recognises that there will be an initial large negative impact which will reduce over time to a moderate-major benefit as newly created habitats develop.

- 2.2.5 Paragraph 3.4 of the Topic Statement review by MEAS states that there would be a woodland deficit of 22.48 BU by way of the metric, which is accurate. It goes on to state that *“this would require the creation of approximately 10ha of lowland mixed deciduous woodland offsite.”* While this statement is not wholly inaccurate, it should be made clear that the provision of 9.4ha of off-site lowland deciduous woodland would result in +22.59 Habitat Units, providing a net gain for woodland, as described in paragraph 4.3.5 of the Proof of Evidence by Mark Morgan on Ecology (CD 38.6), and Appendix 17 of the PoE of Mark Morgan (CD 38.6B). The planting of a minimum of 9.4ha of woodland is secured within the final S106 biodiversity agreement with the Mersey Forest.
- 2.2.6 Paragraph 3.5 of the Topic Statement review by MEAS again refers to concerns of timescales of woodland planting. This is fully dealt with above in paragraph 2.2.4 of this report.
- 2.2.7 Paragraph 3.8 of the Topic Statement review by MEAS states that *“The site is located close [sic] Designated Sites.”* While this is not a wholly inaccurate statement, it should be made clear that the only designated site in close proximity to the proposed development is Booth’s Wood, a designated local

wildlife site, which is a non-statutory designation. Significant mitigation is proposed to avoid unnecessary impacts to the LWS¹ such as the lighting scheme⁵ and drainage strategy⁶.

2.2.8 Paragraph 3.6 of the Topic Statement review by MEAS states that the “*scale of habitat loss and the impacts of this on ecological networks is of significant concern.*”. However, this appears to be in contradiction to paragraph 3.9 of the same report which states “*proposed landscaping (Proposed landscaping strategy Rev F) has been designed to maintain linkages with Booth’s Wood and is appropriate. However, there is a timescale issue to any woodland creation.*”.

2.2.9 Paragraph 3.16 of the Topic Statement review by MEAS states that “*English bluebell is present within Duck Wood on the boundary of the outline application boundary.*”. English bluebell was recorded off-site outside the boundary in Duck’s Wood as detailed in ES Chapter 09 Appendix 09 – Phase 1 Habitat Survey and Target Notes (CD 33.77).

2.2.10 Paragraph 3.19 of the Topic Statement review by MEAS refers to the inclusion of field maple within the landscape proposals. This item is considered a landscape and planting consideration rather than an ecological one.

2.3 Review by Natural England

2.3.1 Under paragraph 3.32 of the Topic Statement review by Natural England, it states the following:

“Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.”

2.3.2 I concur with this assessment.

⁵ Lighting Strategy: DOC.02 Lighting Strategy (Unit 1) (CD 31.2)

⁶ Drainage Strategy: Unit 1 DOC.12 Drainage Outfall Strategy (CD 31.9)

2.4 Review by the Countryside and Development Officer

- 2.4.1 Paragraphs 3.35 – 3.37 of the Topic Statement summarise comments from the Countryside and Development Officer. Importantly, it is of note that the original comments and objection raised within the Committee Report (CD 35.1) is not included here. While paragraph 3.36 of the Topic Statement refers to the timescales of woodland planting (as discussed above in paragraph 2.2.4 of this report), the original concerns that formed the basis of the Proof of Evidence of Mark Morgan – Ecology (CD 38.6) are not repeated within this Topic Statement.
- 2.4.2 Paragraph 3.37 of the Topic Statement details the findings of the Biodiversity Metrics and recommends *“the provision of additional compensatory habitats and biodiversity enhancements or as a last resort, a financial contribution to fund off site biodiversity enhancements.”*
- 2.4.3 I concur with this statement, and as detailed within sections 4.2 – 4.4 of the Proof of Evidence of Mark Morgan – Ecology (CD 38.6), significant effort has gone to secure both suitable and effective mitigation/compensation in the form of on-site habitat planting and off-site contribution secured by a S106 biodiversity agreement.

2.5 Review by the ‘Other Representations’

- 2.5.1 Paragraph 6.16 of the Topic Statement refers again to the off-site planting requirement for woodland. This is sufficiently covered within this report above in paragraph 2.2.5.
- 2.5.2 Paragraph 6.16 of the Topic Statement states in full that:

“Significant harm to biodiversity is being caused by this proposal. The applicant has argued in their case for very special circumstances that this cannot be avoided, due to the identified need for the scale and location of the proposed development. The applicant is providing landscaping on site through the Green Wedge in the north west of the site and replacement hedgerows, however the harm cannot be fully mitigated on site. In accordance with the mitigation hierarchy, the applicant has agreed to off-site compensation. The amount is based on the DEFRA calculations and equates to £1,696,800. This

can be secured by a planning obligation and could help to fund a variety of appropriate projects such as the creation of new wetlands and pond habitats.”

2.5.3 As described within the Proof of Evidence of Mark Morgan – Ecology (CD 38.6) under paragraphs 4.24 – 4.2.10, pond, hedgerow and grassland habitats will result in a net gain via on-site mitigation. Woodland, cropland, scrub, and bare-ground result in an overall metric deficit, requiring off-site compensation. The S106 agreement secures the delivery of 9.4ha of woodland habitat to put woodland in a net gain position, and targets important habitats within the Bold Forest Park that would in my opinion, most likely result in a net gain scenario for the proposals. It is considered that this element is fully addressed in detail within the Proof of Evidence of Mark Morgan – Ecology (CD 38.6).

2.5.4 Paragraph 6.24 of the Topic Statement states that:

“the site is within Bold Forest Park and policy BFP ENV2. The proposal would not meet this policy as it would result in habitat fragmentation and does not safeguard Priority habitats and species highlighted within the Bold Forest Park plan.”

2.5.5 I disagree with this statement. The landscape proposals will result in a net gain for habitats identified within policy BFP ENV2, as described above in paragraph 2.5.3. The landscape proposals result in habitat that is better connected and provides greater linkages to other habitats than that currently exists. There is a time constraint recognised within the ES Chapter 09: Biodiversity (CD 33.57), under Table 9-7, where an initial large negative impact will result under the proposals, which will reduce over time to become a moderate-major benefit.

2.5.6 Furthermore, as fully described within the Proof of Evidence of Mark Morgan – Ecology (CD 38.6) under paragraph 4.2.15, priority habitat as highlighted within the Bold Forest Park Area Action Plan, including policy BFP ENV2, are targeted by the S106 biodiversity agreement.

2.6 Review by the ‘Summary’

2.6.1 Paragraph 8.1 (and 6.25) of the Topic Statement states that following on-site mitigation and off-site compensation there would be harm in the planning balance. As described within the Proof of Evidence of Mark Morgan – Ecology (CD 38.6), as recognised within the ES Chapter 09: Biodiversity (CD 33.57), under Table 9-7, and above within this report at paragraph 2.2.4, there will be initial harm to biodiversity caused by proposals, that will reduce over time to create a benefit to biodiversity, as habitat develops. Important habitats will be far greater in both extent and quality to those that exist, with a net gain for important pond, hedgerow and grassland habitats resulting on site, and a crucial net gain for woodland would be achieved via on-site and off-site planting, secured under the S106 agreement.