

With regard to the Planning Application for Brook Meadow, Tiptree (Planning ref 202604), submitted by Kler, Aspect Ecology have, in March 2021, uploaded a 'Response to Ecology Consultation Comments'. It is the view of Tiptree Parish Council Neighbourhood Plan Steering Group that, once again Aspect Ecology has failed to objectively manage its conflicts of interest in its ecological appraisal of the site. With reference to this 'Response to Ecology Consultation Comments', the Steering Group would like to address the following issues:

1. **No legal protection (Paragraphs 1.2 & 3.7):** Aspect Ecology argues that the Local Wildlife Site (LWS) is a non-statutory designation that confers no legal protection to the site. However LWSs are protected through planning law. The NPPF requires that *plans should identify, map and safeguard components of local wildlife-rich habitats and ecological networks including Locally designated sites of importance for biodiversity and promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.* (NPPF paragraph 174).

In this respect the Colchester Local Plan adopts the Essex Biodiversity Action Plan (BAP) 2010-2020. The Essex BAP records a 97% loss of unimproved neutral grassland in lowland England and Wales between 1934 and 1984. It states, '*The (Essex) plan concentrates on meadows and pastures associated with low-input nutrient regimes, and covers the major forms of neutral grassland which have a specialist group of scarce and declining plant species. Among flowering plants, these include Green-winged orchid (Orchis [now Anacamptis] morio).*' '*Scarcer still (in Essex) are wet meadows and pastures. Only a handful of sites remain, largely confined to the Lea, Stort and Roding Valleys*'. *They are distinguished by the occurrence of a suite of uncommon plants including Southern marsh orchid (Dactylorhiza praetermissa).*'

As both these species of orchid occur on Brook Meadow, Brook Meadow qualifies under the Essex BAP. The Essex Targets for such Lowland meadows are:

1. No loss of existing lowland meadow resource currently estimated as 592ha
2. Achieve optimum biodiversity condition for 50% of lowland meadow = 296ha by 2020
3. Create 50ha of lowland meadow by 2020

Brook Meadow may not be in optimal condition but the number of orchids has been steadily increasing over the last 10 years. For example the number of *Anacamptis morio* spikes recorded annually over the period 2010 to 2020 are 2, 2, 3, 4, 119, 247, 390, 538, 1113, 839, 367. The lack of mowing (deliberate?) in 2019 contributed to the lower number of flower spikes in 2020 but there is no doubt the plants are still there and that the meadow has the potential to be a species-rich habitat. Since the Essex BAP includes the restoration of sub-optimal meadows and the creation of new meadow habitat, Brook Meadow undoubtedly qualifies.

Furthermore the current Colchester Local Plan, **The CBC Local Development Framework, Development Policies (adopted 2010, revised 2014)** includes **Policy DP21** which states that development should seek to 'maximise opportunities for the restoration, enhancement and connection of natural habitats **in accordance with the Essex Biodiversity Action Plan**'. It states,

'Proposals for development that would cause direct or indirect adverse harm to designated areas or protected species will not be permitted unless they cannot be located on alternative sites that would cause less harm, the benefits of the development clearly outweigh the impacts on the features of the site, and satisfactory prevention, mitigation and compensation measures are provided.'

Similarly the **CBC Draft Local Plan 2017-33** (currently under examination) includes among the Monitoring Targets and Indicators (Section 17.1) 'Zero percent loss of **Local Wildlife Sites**; ancient woodland; and **priority habitats** and species.'

In recognition of these policies Tiptree Neighbourhood Plan seeks the protection of LWSs and has identified plenty of alternative sites that are far more suitable for development such that there is no need to destroy a Local Wildlife Site.

2. **Lack of management/encroaching scrub (Paragraphs 1.4, 3.6 & 2.15):** Aspect Ecology frequently refers to encroaching scrub and lack of management. Apart from 2019 the meadow has been mowed annually for at least 20 years (including the so-called scrub). Whilst not perfect, this management regime has allowed biodiversity to increase as illustrated by the increase in *A. morio* recorded above. There is no reason why this management should not continue and the Parish Council as well as local residents are keen that it should. We desire to talk to the land owner about the long-term future of the meadow – but have so far been unable to make contact as the land registry is not up to date.
3. **Inevitable loss (Paragraphs 1.10, 3.6, 3.7 & 3.27):** It follows from the previous point that the assumption that the LWS and the orchids will be lost is premature and no justification for a planning proposal that will certainly lead to the loss of the unimproved grassland and the species, including the orchids, it currently contains. We take exception to the assumption that the site will be lost due to lack of management. It is far more likely to be lost due to development. Even if Aspect Ecology could show a gain in biodiversity, the habitat and species mix will be irreparably altered. The largest portion of retained grassland will be an off lead area for dogs. If Aspect Ecology consider dog-fouling is an issue now, how much more will it be an issue when we have the addition of visitors from 221 new homes on a far smaller piece of land – and a piece of grassland which is actually a bog for 6 months of the year.
4. **The orchids could be removed (Paragraph 1.5 & 3.7):** It is argued that the orchids could be legally removed by the landowner at any point. However according to the Government EIA (Agriculture) regulations Brook Meadow is classed as 'Uncultivated or semi-natural land' since it has not been ploughed or treated with chemical fertilizers for over 15 years. It would require an Environmental Impact Assessment to be completed and submitted to Natural England for a screening decision before any change of use may be permitted. Even if the orchids were removed or the site illegally ploughed, in view of its location and potential, it would still be more valuable as a potential wildlife site than as a housing estate.
5. **Natural England has confirmed that it has no objection to the application (Paragraph 1.2 & 2.4):** What NE actually said in its private communication with Aspect Ecology is, 'Yes, it is the case that Natural England (NE) has not raised a *statutory* objection to the application, *subject to confirmation/review of the Council's HRA*' (emphasis mine). As Tiptree lays within a 'zone of influence' for a number of Habitats sites, an HRA has been prepared by Colchester Council in support of the Tiptree Neighbourhood Plan. One strategy to reduce the pressure on the Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar Sites that lie close to Tiptree is to provide local green space for recreation. Community Consultation revealed that the Inworth Grange Pits LWS that includes Brook Meadow is by far the most popular area for this purpose. To this end the Tiptree HRA includes the statement, '*the Appropriate Assessment suggests that where on-site Green Infrastructure measures are not/cannot be provided, in such cases as additional financial contribution will be sought towards the creation and improvement of an existing area at Inworth Grange Pits. As a Local Wildlife Site, the use of Inworth Grange Pits will need to be carefully considered to be further utilised as a 'SANG' (Suitable Alternative Natural Green Space) as described*

in the Appropriate Assessment and therefore further detail is needed to ensure that the important flora and fauna of his area are maintained and improved.' In other words the LWS is to be conserved to provide the much needed greenspace in support of the 600 homes to be built in Tiptree over the next 15 years and to encourage residents to make use of local greenspace rather than the protected coastal habitats. The 600 homes are to be built on other, more appropriate, sites as identified in the Tiptree NP Strategic Environmental Assessment (SEA).

Furthermore it is a distortion of the truth for Aspect Ecology to suggest that NE has 'no objection to the application'. NE may not have a *statutory* objection but in its response of 14th January 2021, Natural England expressed '*significant reservations about the approach that the applicant has taken to its overall assessment of the ecological impact of the development*'. NE makes the point, '*As the site is of acknowledged nature conservation value, the approach to the assessment of the proposals should accord with the guiding principles set out in Chapter 15 of the NPPF (Conserving and enhancing the natural environment). The Framework is clear that a sequential approach should apply which promotes avoidance of adverse impacts in the first instance, mitigating them where avoidance isn't possible and as a last resort compensating for those impacts. In this particular case, it is the applicant's contention (para 158 of their Planning Statement) that "subject to appropriate mitigation the overall integrity of the Local Wildlife Site is unlikely to be significantly affected. On the contrary, a number of remaining areas are to be enhanced and overall the proposals will deliver a net gain in biodiversity."* This approach turns the Framework guidance on its head by citing the "compensation" as the basis for assessing the merits of the proposal. In terms of nature conservation, there are clearly alternative sites that would have less harmful impacts yet these options have not been examined'.

Indeed there are alternative sites that would have a less harmful impact. Tiptree is surrounded by alternative sites and the draft Tiptree Neighbourhood Plan in conjunction with the SEA has identified the sites that are the most appropriate for development whilst, at the same time, confirming the need to retain this important piece of local countryside.

6. **Criticism of EWT Biodiversity Net Gain Assessment (BNGA) (paragraphs 3.18-22):** In seeking to justify its own BNGA that predicts an increase in Biodiversity post-development, Aspect Ecology have been overly critical of the various Essex Wildlife Trust (EWT) BNGAs that all predict a decrease in Biodiversity. In predicting a net gain Aspect Ecology classified the current condition as 'Grassland – other neutral' and the condition as 'poor'. They consider that post-enhancement they would have raised the quality of the grassland to 'Grassland – lowland meadow' of 'good' condition. This is optimistic in the extreme and does not take into account the vastly reduced area of meadow and the greatly increased pressure on the habitat that remains. This will be considered in more detail below. Furthermore the input value of 'poor' condition is deliberately undervaluing the meadow. The increasing incidence of *A. morio* (see section 1 above) is not indicative of a meadow in poor condition and certainly indicates the potential to be a quality Lowland Meadow according to the Essex BAP. Furthermore the Aspect Ecology appraisal of the meadow overlooked numerous species recorded in some abundance over the past five years including Lesser Stitchwort (*Stellaria graminea*), Cuckoo Flower (*Cardamine pratensis*), Meadowsweet (*Filipendula ulmaria*), Small Lady's Mantle (*Alchemilla vulgaris* agg), Common Vetch (*Vicia sativa*), Grass Vetchling (*Lathyrus nissolia*), Meadow Vetchling (*Lathyrus pratensis*), Birdsfoot Trefoil (*Lotus corniculatus*), Trailing St John's Wort (*Hypericum humifusum*), Hedge Bedstraw (*Galium mollugo*), Lady's Bedstraw (*Gallium verum*), Bugle (*Ajuga reptans*) and Ragged Robin (*Lychnis viscaria*). One species Aspect Ecology did report was Adder's Tongue *Ophioglossum vulgatum*. A species with strong affinities to MG5 and grasslands

with relatively low P and N levels. It would appear the sample size used by Aspect Ecology was too small to represent the species diversity present.

We contend that the EWT view that the meadow is of 'fairly poor' condition is a more appropriate descriptor and certainly no exaggeration. Similarly, in view of the increased pressure focused on the proposed remnant of meadow, the EWT designation of 'fairly good' condition post-development is still generous. Using these values the BNGA returns a -11.14% increase in biodiversity (i.e. an 11.14% decrease). And that is being generous. It is more realistic to contend that the post-development state would not qualify as 'Lowland Meadow'. It certainly would not qualify if we were to apply the definition Aspect Ecology used against the EWT, viz. *'Lowland Meadows' are flower-rich grasslands on ancient turf that have escaped destruction or agricultural improvement, which arise from traditional systems of hay cutting and grazing that have persisted for centuries.* (Paragraph 3.15) – They can't have it both ways. If we assume the end result is not Lowland Meadow (EWT Assessment 2) the decrease in biodiversity is 32.98%.

Unimproved Lowland Meadows are exceptionally rare in Essex. The EWT response quotes the definition of Lowland Meadow used by the Essex Biodiversity Action Plan, namely: *'The (Essex) plan concentrates on meadows and pastures associated with low-input nutrient regimes, and covers the major forms of neutral grassland which have a specialist group of scarce and declining plant species. Among flowering plants, these include Green-winged orchid (Orchis [now Anacamptis] morio).'* If this definition is assumed then the Meadow could justifiably be classed as Lowland Meadow albeit in 'fairly poor' condition (c.f. paragraphs 3.13 & 3.14).

7. **EWT bias (paragraphs 2.2 & 3.17):** For Aspect Ecology to accuse the EWT of bias is ironic to say the least. The EWT is required to act with professional integrity and endeavours, at all times, to base its assessments of ecological impacts on the best available evidence. In this respect its assessment of the Meadow is objective, realistic and justified. On the other hand maybe it is Aspect Ecology that does not escape the accusation of bias. The CIEEM code of conduct requires that Aspect Ecology members are objective, accurate and impartial, managing conflicts of interest and acting with professional integrity. I'm not convinced that this has been achieved in this case.
8. **16% area loss with no significant impact on the LWS (Paragraphs 1.3 & 3.4):** The estimate of 16% loss is based on the built up area only but the reality is that nearer 25% of the LWS original habitat will be irreparably lost – and not to mention the visitor pressure on the rest of the site. Furthermore most of the remaining LWS is former gravel pits – not meadow – so the loss of meadow is about 75% – and this includes all the meadow where Green-winged orchid (*A. morio*) occurs.
9. **Positive Management (Paragraphs 1.6, 3.9, 3.23, 3.25, 4.1):** *'Positive management'* applied to the site as described by Aspect Ecology will lead to a complete change of habitat and the loss of locally significant species. The species mix will be forever changed and locally significant habitat will be lost. Locally rare and vulnerable species of plants, insects, birds and numerous other groups will be lost – and completely unnecessarily so. One glance at the Landscape and Visual Impact Assessment provided by Aspect Ecology will reveal that the intent is to create manicured grassland with planted trees of introduced species and areas sown with 'wild-flower mix'. Such measures, if well managed, can provide some biodiversity but this is no substitute for the loss of native habitat. Indeed the pressure on the remaining areas of the LWS and the contamination by wind-blown seeds from the introduced 'wild-flower' mix will have wide-ranging repercussions on native, naturally occurring species. In short it is a recipe for an ecological disaster.
10. **Bringing the site under positive ecological management is anticipated to significantly improve the grassland condition (Paragraph 3.20):** Aspect Ecology accuse the EWT of overlooking the current

effects of unmanaged recreational pressure on the site. It is true that approximately 50 dog walkers use the site every day (especially in the warmer/drier months) and with no dog bins on site there is an issue of dog waste. This is an issue that can be addressed as the long term future of the meadow is secured. However, most dog walkers confine themselves to Brook Meadow which equates to 50 walkers on about 11 Hectares of wide-open space. Post development 9.5 Hectares will be lost to development and fringe landscaping leaving only the development fringe and the 1.5 Hectare dog walking area for 50 walkers plus the residents of 221 new homes. The EWT assertion that the recreational pressure will be too great to create a high quality habitat is not unrealistic. All the more so when the Landscape and Visual Impact Assessment shows manicured lawns, planted trees and areas seeded with wild-flower mix. All this would be very nice were it not for the destruction of the pre-existing natural habitat. It is very unlikely to result in the retention of the species currently found on Brook Meadow or indeed anything resembling a traditional lowland meadow.

11. **Orchid Translocation (Paragraphs 1.6 & 3.29):** Proposals to translocate orchids (to an area where they do not grow) is highly unlikely to succeed in the long term. Aspect Ecology suggests that the translocation of 'at least 1m²' of turf is a suitable mitigation procedure to safeguard a notable plant species. Having discussed this proposal with the Essex Wildlife Trust we consider that there is a paucity of data to support any claims that the technique can be viewed as successful. Even if the translocated plants survive – which is by no means certain – a review of the current literature shows that only 2% of such studies have reported any natural recruitment of orchids following translocation. None of the studies considered orchid population resilience or pollinator and mycorrhizal ecology. The emerging science on soil ecology is revealing the crucial importance of symbiotic relationships within soils and the complexity of undisturbed soil structure in ecologically viable habitats. Consequently, we are highly sceptical of claims that this type of habitat translocation represents a viable mitigation technique. At best the translocation of 1m² of turf is a poor substitute for a meadow that has the potential (if current population growth is allowed to continue) to be covered with tens of thousands of orchid spikes. It is also worth noting that Green-winged orchid (*Anacamptis morio*) does not occur on the area of meadow that it is proposed to retain.
12. **Greater Tongue Orchid (Paragraphs 1.9, 3.28, 3.30-32 & 3.34,):** Brook Meadow is the ONLY known extant possibly 'wild' site for Greater Tongue Orchid (*Serapias lingua*) in the UK (There have been two documented historical records of this species from the UK/Channel Islands that may have been naturally established).

The characterisation of this plant as a non-native is incorrect. Both Stace, the BSBI red list panel and BSBI head of science (Kevin Walker) confirm that this species is both 'possibly native' and is also Critically Endangered in England. This is alongside its nationally rare status in England. As a result of the population at this site, the species has been recently (2019) put on the national red data book waiting list for plants for the first time. The provenance of the population is unknown but a deliberate introduction is considered unlikely and evidence would suggest the plant has been present on the site for at least 20 years. Colchester Borough Council has received circa 400 objections submitted by botanists from all around the British Isles, which would tend to suggest that this meadow is of national importance. In line with guidance established by CIEEM, this species should be considered to be important in a national context; particularly given this is the only extant site in the country.

The suggestion that the species could be retained *in situ* (Paragraph 3.34) is pure fantasy. Even if it were to survive the builder's tractors and earth movers, the changes to the water table, changes to

management of a patch of grass surrounded by houses not to mention the trampling would combine to ensure its elimination.

13. **The high number of objections to this planning application (Paragraph 2.5):** At the last check (14th April 2021) there were 898 objections out of a total of 943 documents relating to this planning application on the Colchester Borough Planning website. Of these objections approximately half come from local residents who greatly appreciate the value of this natural open space to the community and half have come from botanists from all parts of the British Isles who recognise the national importance of this site. The explanation provided by Aspect Ecology for this high level of interest is, *'It should be noted that an internet campaign, based on inaccurate and unfounded claims about the proposals and potential for impacts on orchids, in particular, has likely contributed to the number of responses provided by third parties.'* Please note the word *'likely'* – it makes all the difference! This statement is completely speculative and is itself unfounded. The legitimate concerns are far from *'inaccurate and unfounded claims about the proposals and potential for impacts on orchids'* there is clear evidence of a very real threat to the survival of the orchids as detailed in previous sections above. The objectors are completely justified in their concern.

In Conclusion

There is absolutely no reason to grant planning permission on this site. Far from guaranteeing the survival of the habitat, development will ensure its destruction and will damage the remaining LWS. This is an area of countryside that is valued by the community and recognised nationally for its botanical interest. This is the reason for the exceptionally high number of objections on the Colchester Planning Site. That an ecological survey company can so misrepresent a Local Wildlife Site is evidence that the system is broken. Relying on mitigation to justify the destruction of a valued Local Wildlife Site when the local housing need can be more than adequately met through the plethora of alternative and more appropriate sites, is an affront to our beleaguered flora and fauna not to mention local democracy. It must be the most disheartening of careers for an ecologist to 'sell his soul' proving that wildlife-rich sites are suitable for development. We understand that companies like Aspect Ecology are driven by market forces and need to successfully promote all areas as suitable for development in order to attract future clients. But that is where they fail to be objective or impartial or able to manage the conflicts of interest. The system needs an overhaul.