



ECOLOGICAL ADVICE SERVICE

TO: Sue Head

FROM: Hannah Simmons

DATE: 14 March 2024

SUBJECT: 23/1591/FH / Land west of Ashford Road, New Romney, TN28 8TD

The following is provided by Kent County Council's Ecological Advice Service (EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the County Council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application; and whether sufficient and appropriate ecological information has been provided to assist in its determination. Any additional information, queries, or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the Planning Officer, who will seek input from the EAS where appropriate and necessary.

We have reviewed the updated ecological information submitted by the applicant and advise that sufficient ecological information has been provided.

Reptiles

A Preliminary Ecological Appraisal (PEA) of the site was conducted to determine if the site has changed since the Ecological Impact Assessment (EclA) was completed. The site had not been managed sufficiently and habitat for reptiles had begun to develop. As a result, a reptile survey was carried out to determine if reptiles had moved onto the site. Common Lizards (peak count of three) were recorded on site, demonstrating a low population of common lizards were now present on site.

As part of previous planning permission (reference 20/2068/FH), a mitigation strategy was devised involving off-site translocation of the reptiles to the receptor site known as Tarte land, where great created newt and badger mitigation has occurred for other developments in the area. A reptile survey of the receptor site found that it had already been colonised by Common Lizard, Grass Snakes and Slow Worms. Translocation of reptiles to the receptor site began in October 2023, was paused over the winter when reptiles are less active and will continue again from March 2024.

We are satisfied that the receptor site is suitable, the methods of translocation are suitable, and habitat management of the receptor site is suitable for reptiles. We advise that these

methods are secured with a condition to ensure that they are followed, and reptiles protected prior to and during construction.

Reptile Condition – suggested condition wording

Prior to works commencing (including vegetation clearance) the translocation shall be undertaken in strict accordance with the approved details in the Preliminary Ecological Appraisal/Reptile Survey Report (David Archer Associates. November 2023). On completion of the reptile mitigation a verification report must be submitted to and approved in writing by the Local Planning Authority confirming that the reptile mitigation has been completed.

Great Crested Newts

There are three ponds immediately adjacent to site, one with historical records of Great Crested Newts (GCN). The ponds are proposed to remain, but as suitable terrestrial habitat exists on site, there is a risk of killing or injuring GCN as part of the proposal.

The applicant has submitted a countersigned Impact Assessment and Conservation Payment Certificate confirming that the proposal has been accepted on the District Level Licencing (DLL) scheme and therefore we accept that no surveys or a detailed mitigation strategy is required as part of this application.

In accordance with the February 2020 Natural England explanatory note for local planning authorities on Clause 9.3 and Annex D6.1 of BS42020:2013, planning conditions and European Protected Species licences, we recommend the below condition be attached should planning permission be granted:

Great Crested Newt District Level Licence - Suggested condition wording

Prior to works commencing (including site clearance), evidence that the full Great Crested Newt District Level Licence conservation payment has been made to Natural England and the licence issued, will be submitted to, and approved in writing by, the local planning authority.

Badgers

During the September 2022 surveys, an outlier sett with three entrances was recorded in the southern corner of the site, including two active entrance holes, and one inactive entrance hole. In addition, an updated badger survey was carried out at the same time as the PEA in October 2023. Two badger setts were recorded, the original sett along the southern boundary with four additional entrances now dug, and an annexe sett with one well-used active entrance hole along the western application boundary. This indicates that badgers are still actively using the site.

The development will result in the destruction of the badger setts. Therefore, a licence to carry out the works will be required from Natural England. We are satisfied that the mitigation measures set out in the PEA Annex are suitable, and that immediately prior to the licence application being made, another survey will need to take place to inform the licence correctly on the number of currently active setts. The proposed mitigation for badgers must be followed, as necessary, prior to and for the duration of construction works, unless varied by the Natural England licence.

To ensure the protection of badgers in compliance with the Protection of Badgers Act 1992 and Schedule 6 of the Wildlife and Countryside Act 1981 (as amended), we advise the below condition is attached should planning permission be granted:

Badger Condition – Suggested Condition Wording

From the commencement of works (including preparatory works and site clearance), the badger mitigation measures detailed within section 6 of the Preliminary Ecology Appraisal badger appendix (David Archer Associates, November 2023) will be implemented unless varied by the Natural England Mitigation licence that must be in place prior to works commencing on-site. If works have not commenced within 2 years of the date of the report a review and (if required) update of the badger mitigation strategy must be carried out. On completion of the mitigation a letter must be submitted to the LPA confirming it has been implemented.

Bats

We are satisfied that the Preliminary Roost Assessment of the stables has considered them to provide negligible potential for roosting bats, and therefore no further surveys are required.

Transect surveys of the site recorded bats utilising the site for foraging. We are satisfied that suitable mitigation has been proposed to address potential impacts, including retention of linear features, the provision of buffers between the development and the boundary habitats, and the creation of new foraging habitats as described in section 5.38-5.40 of the EcIA. If planning permission is granted, we advise that these measures are incorporated into the **CMP condition wording**.

Lighting

Lighting can negatively impact nocturnal species, like bats, that are foraging and commuting on site and in the surrounding habitat. Currently there is no lighting plan or information submitted. Therefore, with bats present foraging/commuting within the area, there is a risk that any lighting may have a negative impact.

To mitigate against potential adverse effects on bats, and in accordance with the National Planning Policy Framework 2023, we suggest that the Bat Conservation Trust's 'Guidance Note 08/23: Bats and Artificial Lighting at Night' is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority and secured via an attached condition with any planning permission.

Lighting - Suggested condition wording

Prior to completion, a lighting plan which has been designed to minimise impacts on biodiversity shall be submitted to and approved in writing by the local planning authority. The plan will show how and where external lighting will be installed and provide commentary regarding how the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23: Bats and Artificial Lighting at Night' has been considered in the lighting design. It will be clearly demonstrated that areas to be lit will not impact protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and be maintained thereafter.

Breeding Birds

It is possible that breeding birds may be using the vegetation on site. We advise that an informative is included should planning permission be granted.

Breeding bird informative – suggested wording

The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (1st March to 31st August inclusive) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented. This includes examination by a suitably qualified and experienced ecologist immediately prior to starting work. If any nesting birds are found, works must cease until after the birds have finished nesting.

Designated Sites

The site is located within 3km of the Dungeness NNR and within 2.5km of the Dungeness, Romney Marsh and Rye Bay SSSI, SPA and Ramsar and Dungeness SAC.

The HRA has highlighted that the proposal has the potential to result in a likely significant effect as a result of recreational pressure and water pollution.

Water Pollution

The HRA has detailed there is minor potential for pollution entering into the designated sites through the ditch network as result of surface water drainage. We are satisfied that as long as an appropriate surface water drainage plan has been agreed that those measures will minimise a pollution risk occurring. Thus, the mitigation of the surface water scheme ensures that we are satisfied that an adverse impact on the designated sites is avoided.

Recreational Pressure

The HRA has highlighted there is potential for impacts to the designated sites due to increased recreational pressure. The Folkestone and Hythe District Council Core Strategy Review (adopted March 2022) and accompanying Habitats Regulations Assessment, paragraphs 4.36-44 (LUC, 2018) include reference to the Sustainable Access and Recreation Mitigation Strategy (SARMS) 2017. It's our understanding that there is no strategic financial contributions project in place for such developments where new dwellings contribute. Instead, the SARMS provide opportunities for projects to access funding through the CIL process to implement projects which address any matters which are caused due to recreational pressure or support sustainable access.

Due to the measures within the SAMRS to ensure that appropriate measures can be implemented as and when issues from recreational pressures have been identified, we are satisfied that appropriate mitigation could be implemented if needed.

Biodiversity Net Gain

Under section 40 of the NERC Act (2006) and paragraph 180 of the NPPF (2023), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 186 of the NPPF (2023), the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged.

An updated Ecological Design Strategy (EDS) / Landscape Ecological Management Plan (LEMP) has been submitted with updated plans which now match the current proposed layout.

We are satisfied that with the range and indicative location of ecological enhancements that have been suggested for the full planning application. We are satisfied with the general location of the box enhancements but remind the applicant that bird boxes are best situated facing north when erecting the features, and bat boxes best situated facing south. We also recommend that as per recommendations of the PEA, hedgehog holes are included in close board fencing where possible to allow for a larger foraging habitat and increased connectivity across the site.

A softworks landscape plan has also been submitted, with a list of species and planting and establishment methods and some management regimes. We are satisfied that these are suitable for the site.

Regarding the outline part of the application, we advise that ecological enhancements are secured as a condition if planning permission is granted as part of the reserved matters application for the self builds.

Ecological Enhancement – Suggested Condition Wording for reserved matters application
With the submission of the reserved matters applications, plans showing how the plots and buildings will enhance and maintain biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include details of native and wildlife-friendly planting, durable bat and bird boxes, and hedgehog holes in close board wooden fences. The approved details will be implemented and thereafter retained.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Hannah Simmons
Biodiversity Officer

This response was submitted following consideration of the following documents:

Ecological Impact Assessment. CSA Environmental. December 2020

Badger Survey and Mitigation Report. David Archer Associates. December 2022

Habitats Regulations Assessment – Report. David Archer Associates. October 2023

Ecological Design Strategy & Landscape and Ecology Management Plan. David Archer Associates. December 2023

Preliminary Ecology Appraisal with badger appendix. David Archer Associates. November 2023