



**Kent Sussex
Ecology**

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Preliminary Ecological Appraisal & Biodiversity Net Gain Assessment

Land at Heron Hill Lane, Gravesend

July 2026

Reference number: 0564

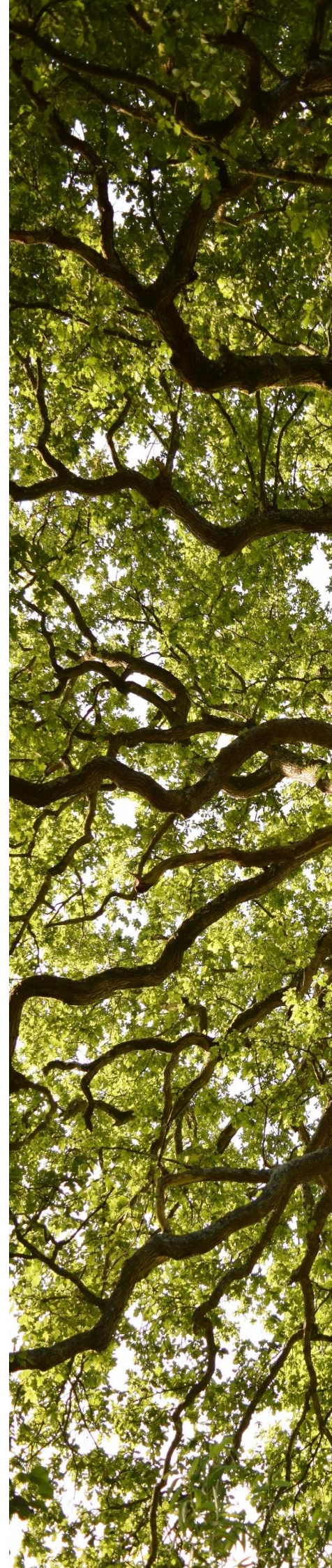
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1.0. SUMMARY

Kent Sussex Ecology was commissioned to undertake a Preliminary Ecological Appraisal and Biodiversity Net Gain assessment for a proposed development at 'Land at Heron Hill Lane', Harvel, Gravesend. The proposal involves the conversion of a parcel of intensively farmed arable land and modified grassland into a grassed dog walking park, complete with access and parking provisions.

The site does not fall within a SSSI Impact Risk Zone that would trigger consultation with Natural England, and the development is highly unlikely to adversely affect any statutory or non-statutory designated sites. The on-site habitats are of low ecological value, consisting primarily of cereal crops and modified grassland. However, the site is bordered by ancient woodland to the west. To protect this irreplaceable habitat, a minimum buffer zone will be strictly enforced during the construction and operational phases to ensure its long-term preservation.

No direct evidence of protected species was recorded during the site visit, and no further surveys are deemed necessary. However, the site and its immediate boundaries provide suitable habitat for several species, necessitating the implementation of precautionary mitigation measures during the construction phase.

The proposed development is considered subject to mandatory Biodiversity Net Gain obligations under Schedule 7A of the Town and Country Planning Act 1990. The loss of the existing low-value agricultural habitats will be offset by the enhancement of retained cropland. This will involve the creation of floristically diverse 'arable field margins pollen and nectar' habitat, which is recognised as a UK priority habitat. The statutory biodiversity metric calculation confirms the proposed measures will deliver a sufficient net gain in area habitat units, exceeding the 10% statutory requirement.



Site location plan.



2.0. INTRODUCTION

2.1. OVERVIEW

- 2.1.1. Kent Sussex Ecology was commissioned to undertake a Preliminary Ecological Appraisal (PEA) and Biodiversity Net Gain assessment (BNG) at 'Land at Heron Hill Lane', Harvel, Gravesend, Kent, DA13 0QL, centred on grid reference TQ 64580 63679.
- 2.1.2. The 0.9-hectare site (redline boundary) mostly comprises intensively farmed arable land, with a small amount of modified grassland. The proposed development is for the provision of a grassed dog walking park, with access and parking.
- 2.1.3. The site was subject to an on-site survey on 1st July 2026 in suitable weather conditions and in accordance with CIEEM guidance. The surveyor was Jo Lewis BSc (Hons) MSc ACIEEM; a suitably qualified ecologist with 18 years of experience working in the field of ecology and holder of a Field Identification Skills Certificate (FISC) level 4 accreditation. A desktop study was carried out using DEFRA's Multi-Agency Geographic Information for the Countryside (MAGIC) website for records of site designations, habitat information and protected species.
- 2.1.4. Habitats were categorised in accordance with the definitions of the UK Habitat Classification (UKHab v2.0). The methodology used for the BNG assessment, as well as details regarding the development's BNG obligations under Schedule 7A of the Town and Country Planning Act 1990, is detailed in Section 5 of this report.
- 2.1.5. The objectives of this document were to:
- Identify all relevant statutory and non-statutory designated sites and features of ecological significance within the site and its surroundings.
 - Assess the potential for the presence of protected species and species of principal conservation importance, important habitats, or other biodiversity features within the site and its surroundings.
 - Provide recommendations for, and undertake, further surveys as necessary.
 - Present the likely significance of ecological impacts from potential development.
 - Present any likely mitigation and compensation measures required in relation to the relevant legislation and policy.
- 2.1.6. This survey information will remain valid for 12 to 18 months, in accordance with current CIEEM guidance (Advice Note on the Lifespan of Ecological Reports & Surveys).



3.0. BASELINE ECOLOGICAL CONDITIONS

3.1. DESIGNATED SITES

- 3.1.1. The site is not situated within or adjacent to a statutorily designated site for nature. The nearest designated site is the 'North Downs Woodlands' Special Area of Conservation (SAC) and 'Halling to Trottiscliffe Escarpment' Site of Special Scientific Interest (SSSI), located over 2km to the south and east of the site.

3.2. HABITATS

- 3.2.1. Three UKHab habitat types were recorded on site (see habitat plan on page 7):
- **Cereal crops:** The site is dominated by a sown crop of wheat. Other species found growing in the crop area include Italian rye-grass *Lolium multiflorum*, oat *Avena sativa*, soft-brome *Bromus hordeaceus* and black-grass *Alopecurus myosuroides*.
 - **Modified grassland:** An area of modified grassland is present to the south-east corner of the site at the edge of the crop field. This area is dominated by species such as false oat-grass *Arrhenatherum elatius*, cocks-foot *Dactylis glomerata*, and perennial rye-grass *Lolium perenne*, with tall forbs present in areas, such as great willowherb *Epilobium hirsutum*, bramble *Rubus fruticosus*, hogweed *Heracleum sphondylium* and common nettle *Urtica dioica*.
 - **Species-rich native hedgerow with trees.**
- 3.2.2. The site's habitat connectivity is reasonably good due to its rural setting. Furthermore, ancient woodland borders the wider field boundary to the west.

3.3. PROTECTED SPECIES

- 3.3.1. No direct evidence of protected species was observed during the site visit. However, due to the habitat on-site, some protected species are considered further in the context of the development activity, as discussed below.

3.4. BATS

- 3.4.1. No signs of bats were recorded on-site and the site provides no structures or trees capable of supporting roosting bats. Although the hedgerow with trees could potentially support trees with roost features, this vegetation is to remain unimpacted by the development and so no roost assessment of the trees was undertaken. The site provides suitable foraging and commuting habitat around the margins, with the presence of nearby woodland indicating the likely presence of foraging and commuting bats.

3.5. GREAT CRESTED NEWT

- 3.5.1. There is one pond located approximately 100m from the proposed site entrance, meaning Great Crested Newt (GCN) *Triturus cristatus* could be present in the area. However, the habitat on-site is sub-optimal for GCN and there are no other waterbodies within a 250m radius of the site.



3.6. REPTILES

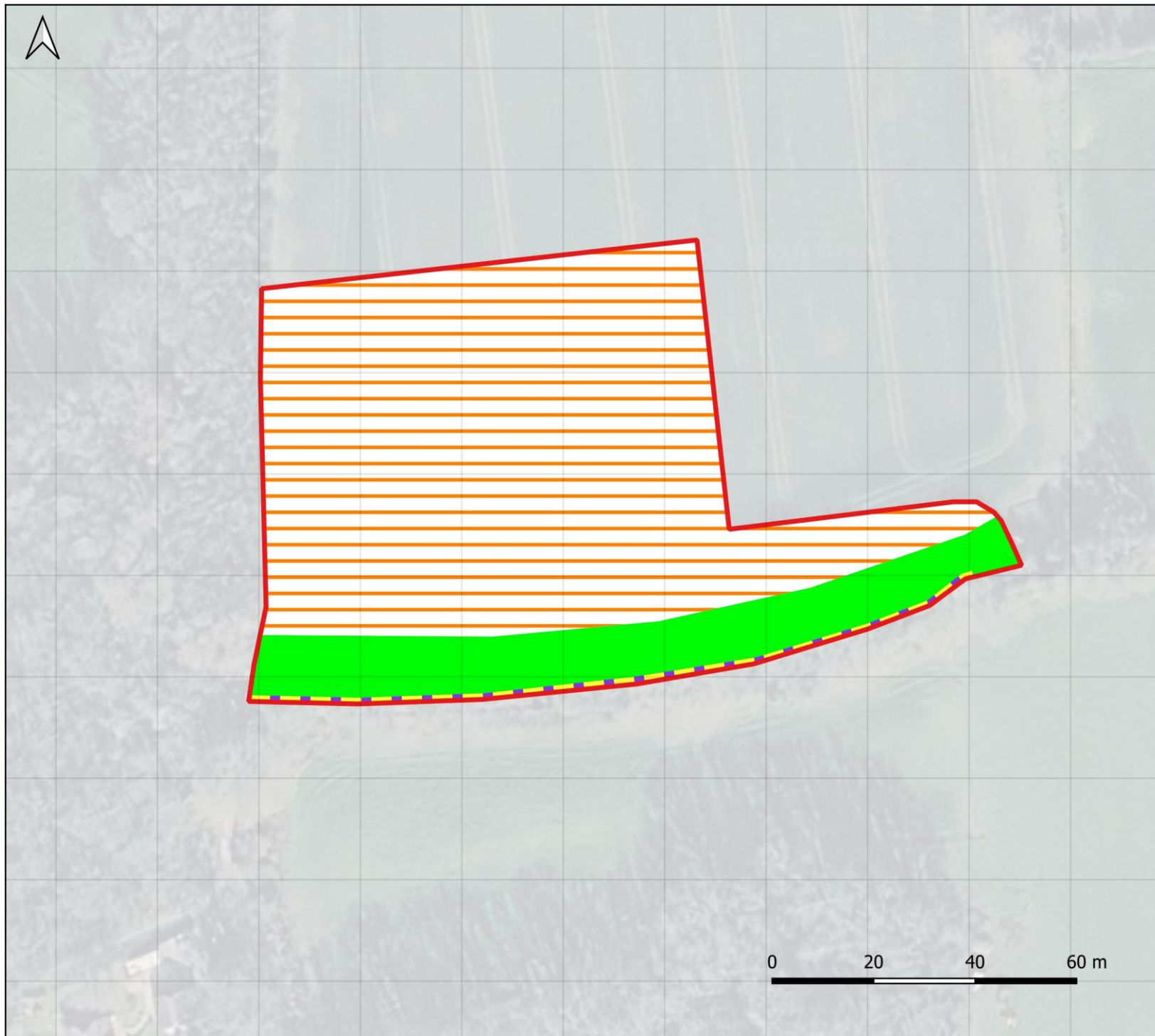
- 3.6.1. The majority of the site is comprised of cropland which is not considered suitable for reptiles. Suitable reptile habitat is present along the field boundary, where rough grassland adjacent to a hedge provides shelter and basking opportunities.

3.7. BREEDING BIRDS

- 3.7.1. There is suitable nesting habitat within the site, with the trees and surrounding woodland providing optimal nesting opportunities for various bird species. Ground nesting birds, primarily Skylark, could utilise the arable field for nesting purposes.

3.8. BADGER AND HEDGEHOG

- 3.8.1. No evidence of badgers *Meles meles*, such as trails, latrines or sett entrances, was observed during the site visit. However, snuffle holes and badger paths were present within the rough grassland bordering the site, indicating the potential presence of a nearby badger sett. Equally, European hedgehog *Erinaceus europaeus* is expected to be present in the local area and may utilise the site.



-  Redline boundary
-  Cereal cropland
-  Modified grassland
-  Species-rich hedgerow with trees



Land at Herons Lane
Baseline Habitat Plan Rev B
Scale 1:1500
15.07.2026

Reproduced with Google Satellite and QGIS



4.0. CONCLUSION AND RECOMMENDATIONS

4.1. DESIGNATED SITES

- 4.1.1. Schedule 4(w) of the Town and Country Planning (Development Management Procedure) Order 2015 states that Natural England must be consulted on “development in or likely to affect a Site of Special Scientific Interest”.
- 4.1.2. The National Planning Policy Framework (NPPF) states that “development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest”.
- 4.1.3. Regarding the National Site Network (comprising Special Protection Areas (SPAs) and Special Areas of Conservation (SACs)) and Ramsar sites, Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) states that “any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives. In light of the conclusions of the assessment [...] the competent authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned.”
- 4.1.4. The site does not fall within a SSSI impact risk zone where consultation with Natural England is triggered. The proposed development is unlikely to impact any designated sites and, as such, no further recommendations have been made.

4.2. HABITATS

- 4.2.1. Certain habitat types are listed as ‘habitats of principal importance’, or ‘priority habitats’, under the NERC Act 2006. In accordance with Section 41 of the Act, these habitats are capable of being a “...material consideration in the... ..making of planning decisions” (Paragraph 84, Government Circular (ODPM 06/2005)). Additionally, irreplaceable habitats, such as ancient woodland, are explicitly afforded protection within the National Planning Policy Framework.
- 4.2.2. With the exception of the roadside ‘species-rich hedgerow with trees’, there are no priority habitats within the site, and the development will only entail the loss of a low-value arable and grassland habitat (see the proposed habitat plan on page 12). It is assumed that the entrance will not be significantly widened to facilitate access, which would impact hedgerow habitat. Regardless, the development is considered subject to Biodiversity Net Gain (BNG) obligations under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This is addressed in Section 5 of the report.



- 4.2.3. In accordance with the joint standing advice published by Natural England and the Forestry Commission, the proposed development layout has been designed to incorporate a minimum 15m buffer zone between the construction footprint and the boundary of the adjacent ancient woodland. This buffer is of importance to prevent adverse impacts. No development, heavy machinery movement or material storage will be permitted within this designated zone, thereby ensuring the long-term preservation and ecological integrity of this irreplaceable habitat.

4.3. PROTECTED SPECIES

- 4.3.1. Paragraph 99 of the ODPM 06/2005 states that “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.
- 4.3.2. No further surveys have been recommended for protected species, with precautionary mitigation measures considered sufficient to negate any potential impacts, as outlined further on.

4.4. BATS

- 4.4.1. Regulation 43 of the Conservation of Habitats and Species Regulations 2017 (as amended) states it is an offence to deliberately disturb bats in a manner that impairs their ability to survive, breed, or significantly affects their local distribution. This is reinforced by the Wildlife and Countryside Act 1981 (as amended), which prohibits reckless disturbance of bats within a place of shelter. Furthermore, under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 (as amended), authorities have a statutory duty to conserve and enhance biodiversity, necessitating the mitigation of light spill on ecologically-sensitive receptors that could affect bat activity.
- 4.4.2. It is assumed that the development will not incorporate any new lighting. If it does include new external lighting, this needs to be sensitively designed. To mitigate the impacts of artificial lighting on general bat activity, a sensitive lighting design for the operational development is recommended. This should follow the Institution of Lighting Professionals’ guidance within the ‘GN01 For the reduction of obtrusive light 2021’ document and include:
- No illumination throughout the entire night.
 - All lighting will use narrow spectrum light sources with a colour temperature of 2700K or lower.
 - All external luminaires must be horizontal cut-off to eliminate upward light spill, and utilise cowls and hoods to prevent any external light spill.
 - Maintain a dark buffer/corridor (ideally <0.5 lux) along established commuting routes.
 - Implement PIR (passive infrared) sensors or timers to ensure lighting is only active when required, providing periods of total darkness during peak bat activity times (dusk and dawn).
 - Keep bollards and columns as low as possible to reduce the cone of light spread.



4.5. GREAT CRESTED NEWT

- 4.5.1. GCN are afforded strict legal protection as a European Protected Species (EPS) under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). Under this legislation, it is an offence to intentionally or recklessly kill, injure, or capture an individual, or to damage, destroy, or obstruct access to any structure or place used for shelter or protection.
- 4.5.2. Use of Natural England's GCN risk assessment tool within the GCN method statement indicates that with only one pond within 100m to 250m, and the small area of suitable habitat being impacted within the site, an offence is unlikely (see table below). This result assumes the implementation of precautionary mitigation measures during the construction phase.

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	0.1 - 0.5 ha lost or damaged	0.1
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
Maximum:		0.1
Rapid risk assessment result:	GREEN: OFFENCE HIGHLY UNLIKELY	

- 4.5.3. To minimise the risk of harm to GCN during the construction phase, a suite of precautionary working measures must be implemented on-site. Any necessary vegetation clearance within suitable habitat, such as the rough grassland margins, must be undertaken directionally towards retained boundaries using hand tools, and restricted to the active season (typically March to October, when night-time temperatures are consistently above 5°C). All construction materials, spoil, and waste must be stored on raised pallets or existing hardstanding to prevent the creation of temporary artificial refuges. Furthermore, any trenches or excavations left open overnight must be securely covered or fitted with rough timber escape ramps angled at no more than 45 degrees to prevent entrapment. In the unlikely event that GCN is encountered at any stage, all works in the vicinity must cease immediately, and a licensed ecologist must be contacted to determine the appropriate course of action and whether a licence is required.

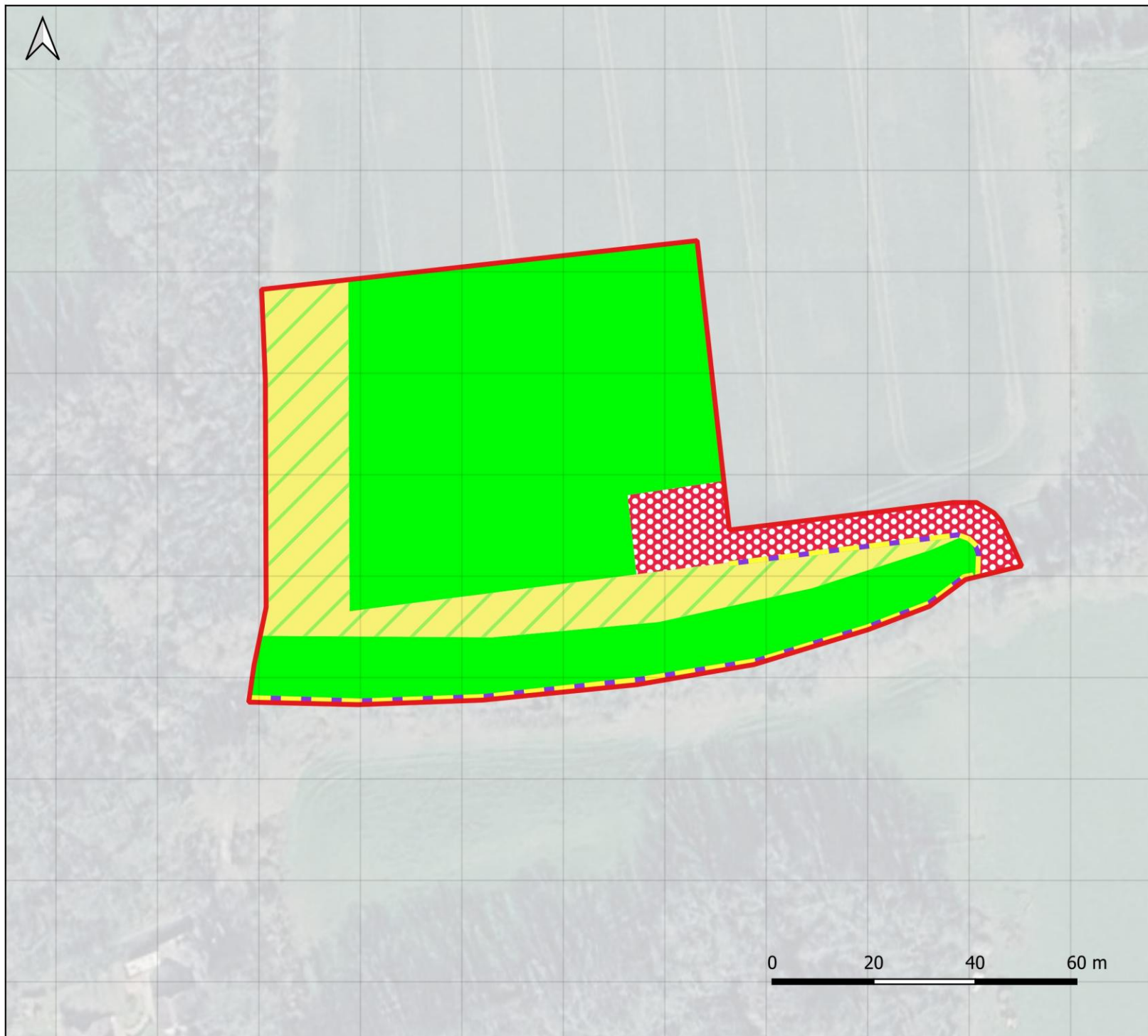


4.6. BREEDING BIRDS

- 4.6.1. 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.
- 4.6.2. A ground-nesting bird survey is considered disproportionate for this relatively small development. The tall tree lines situated along the southern and western boundaries create an unattractive and suboptimal habitat for ground-nesting species; these birds require extensive, open sight lines to visually detect approaching threats and generally avoid nesting near tall vertical structures that can serve as perches for avian predators. Additionally, the vast majority of the land within the adjacent blueline boundary, comprising open arable fields, will be entirely retained, preserving the most optimal and secure nesting habitat for these species locally. Furthermore, the proposed BNG delivery should significantly increase the abundance of invertebrate prey across the margins. This uplift in essential foraging resources is likely to provide a net benefit to any ground-nesting bird populations utilising the retained arable landscape. Standard precautionary mitigation measures to avoid impacts during the construction phase are recommended, as detailed below.
- 4.6.3. Any work to vegetation that may provide suitable nesting habitat for birds should be undertaken outside of the breeding bird season (March to August, inclusive). If vegetation needs to be removed during the breeding bird season, it is recommended that an experienced ecologist inspect the vegetation prior to works commencing. If nesting birds are found to be present, work cannot take place until the young are fully fledged.

4.7. BADGER AND HEDGEHOG

- 4.7.1. Badgers and their setts are afforded legal protection under the Protection of Badgers Act 1992. This legislation makes it a criminal offence to wilfully kill, injure, take, possess or ill-treat a badger. The European hedgehog is protected under Schedule 6 of the Wildlife and Countryside Act 1981, which prohibits their killing or capture using certain methods, and they are further recognised as a Species of Principal Importance for conservation under the Natural Environment and Rural Communities (NERC) Act 2006.
- 4.7.2. No further surveys are required for badgers. During the construction phase of the development, all trenches and excavations must be covered overnight or provided with an escape ramp to prevent badgers, hedgehogs and other terrestrial vertebrates from becoming trapped. Any excavations should be checked each morning.



- Redline boundary
- Arable field margins pollen and nectar
- Artificial unvegetated, unsealed surface
- Cereal cropland
- Modified grassland
- Species-rich hedgerow with trees



Land at Herons Lane
Proposed Habitat Plan Rev B
Scale 1:1500
15.07.2026

Reproduced with Google Satellite and QGIS



5.0. BIODIVERSITY NET GAIN METRIC

5.1. INTRODUCTION

- 5.1.1. A BNG assessment was carried out in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), using the main statutory biodiversity net gain metric tool. The guidance in the 'Statutory Biodiversity Metric User Guide' and the condition assessment sheets (Technical Annex 1) were used to inform the metric inputs. The calculations and condition assessments will accompany this report.
- 5.1.2. Regarding metric inputs, the four rules to be adhered to for results to be valid are:
- Satisfying the in-metric trading rules;
 - Unit outputs for each type of unit must not be summed, traded, or converted between types, to deliver an overall 10% gain;
 - To accurately apply the biodiversity metric formula, the statutory biodiversity metric calculation tool must be used, and;
 - Deviation from this biodiversity metric methodology may be permitted by the relevant planning authority in exceptional circumstances only.
- 5.1.3. The botanical survey was carried out along with the PEA. Not all flowering annuals would have been observable (in flowering or vegetative form) at the time; however, a botanical survey at this time and at this site is considered sufficient to determine the broad habitat type of the area to be impacted.
- 5.1.4. To ensure accurate input baseline data was used, a botanical assessment was conducted and georeferenced on-site and synchronised with QGIS for mapping. The maps produced for this report use the colour coding specified within the latest UK Habitat Classification category definitions document. Individual trees and scrub were recorded separately.

5.2. METRIC INPUTS AND DEVELOPMENT IMPACTS

- 5.2.1. The habitats on-site, as inputted into the baseline tab of the metric, consisted of cereal cropland, modified grassland (in poor condition) and species-rich native hedgerow with trees in good condition).
- 5.2.2. The proposals will entail the loss of most of the cropland and a small proportion of modified grassland within the redline boundary. The hedgerow will remain unimpacted. The development will involve the creation of modified grassland (poor condition) and permeable unsealed surfaces for access and parking.
- 5.2.3. To offset the biodiversity loss on-site, the development will enhance retained cropland to 'arable field margins pollen and nectar' habitat. This is achieved by establishing grass strips around the edges of active arable fields and sowing them with a mixture of agricultural legumes and wildflowers, which must contain a minimum of four nectar-rich flowering species. The management of these margins is specifically targeted at providing continuous floral resources for pollinators and invertebrates throughout the season;



therefore, they must be kept strictly low-input (no applications of fertilisers or broad-spectrum pesticide) and must be maintained through rotational cutting rather than intensive harvesting. Furthermore, to satisfy the criteria for this habitat type, the adjacent agricultural field must remain in an active crop rotation that includes an arable crop.

- 5.2.4. The creation of these margins is highly significant, as arable field margins managed for wildlife are officially recognised as a UK priority habitat. Botanically, arable plants encompass more species threatened with extinction than any other plant group in the UK, with many of these rare species now entirely confined to the outer edges of fields. These low-input margins create areas that allow less competitive, rare broad-leaved arable “weeds” to successfully germinate and establish without being outcompeted by aggressive, nutrient-loving grass weeds. In turn, establishing this florally diverse habitat supports a unique array of insects and provides essential seeds, nesting cover and overwintering refugia for declining farmland wildlife across the agricultural landscape.
- 5.2.5. To achieve the requisite 10% uplift in linear habitat, a stretch of native hedgerow will be planted along the new entranceway (and managed to a ‘moderate’ condition).

5.3. RESULT

- 5.3.1. The metric output results in a net gain of 15.88% in area habitat and 10.58% in linear habitat, achieving the mandatory minimum 10% threshold. As such, the development demonstrates adherence to the net gain obligations under the Environment Act 2021 (as inserted by Schedule 7A of the Town and Country Planning Act 1990).

FINAL RESULTS		
Total net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	<i>Area habitat units</i>	0.28
	<i>Hedgerow units</i>	0.37
	<i>Watercourse units</i>	0.00
Total net % change (Including all on-site & off-site habitat retention, creation & enhancement)	<i>Area habitat units</i>	15.88%
	<i>Hedgerow units</i>	10.58%
	<i>Watercourse units</i>	0.00%
Trading rules satisfied?	Yes ✓	

Headline results.

- 5.3.2. To ensure the proposed biodiversity gains are delivered, an associated condition can be attached to any granted planning permission. An enhancement of 0.2 ha of arable land is not considered ‘significant’ under BNG guidance, so it can be secured via a standard planning condition rather than a legal agreement. Enhancing just 0.2ha of arable land yields a negligible fraction of a habitat unit and presents no landscape-scale impact. Furthermore, creating standard low-to-medium distinctiveness habitats on arable soil involves routine management without the ecological risk or complexity that justifies a legal covenant. Requiring a S106 for such a minor footprint violates national policy tests on legal necessity and proportionality, making a standard 30-year Landscape and Ecology Management Plan condition the appropriate legal mechanism.



APPENDIX A: PHOTOGRAPHS



The southern grassland margin of the field.



The cropland habitat within the redline boundary.



APPENDIX B: LEGISLATION AND POLICY

The Wildlife and Countryside Act (as amended) 1981

The Wildlife and Countryside Act 1981 (as amended) is the principal piece of UK legislation relating to the protection of wildlife. It consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the Conservation of Wild Birds (Birds Directive) in Great Britain.

The Act makes it an offence to:

Intentionally kill, injure, or take any wild bird or their eggs or nests (with exception to species listed in Schedule 2). Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young.

Intentionally kill, injure, or take, possess, or trade in any wild animal listed in Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places (subject to exceptions). The Act also prohibits certain methods of killing, injuring, or taking wild animals listed in Schedule 6.

Uproot, trade in, or possess (for the purposes of trade) any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants (subject to exceptions).

Facilitate the establishment of non-native species which may be detrimental to native wildlife, prohibiting the release of animals and planting of plants listed in Schedule 9. It also provides a mechanism making any of the above offences legal through the granting of licences by the appropriate authorities.

The Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 (the 'Habitat Regulations'), as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, establish the requirements for protecting sites that are internationally important for threatened habitats and species and thus the requirement for a 'Habitat Regulations Assessment' of plans or developments with potential to affect them.

The Habitat Regulations also establish the strict protection of some species (European Protected Species) and make it an offence to deliberately capture, kill or disturb certain wild animals, and to damage or destroy a breeding site or resting place of such an animal even if the animal is not present at the time.

The competent authority will have to adhere to the requirements of the Habitats Directive in the exercise of their functions. As such, they must consider whether it is likely that an EPSM Licence from Natural England will be granted, and in so doing must address the three tests when deciding whether to grant planning permission for the proposed development. The three tests are that:

Regulation 55(2)(e) states: a licence can be granted for the purposes of *"preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"*.

Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied *"that there is no satisfactory alternative"*.

Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied *"that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."*



Natural Environment and Rural Communities Act 2006

Section 41 of the NERC Act requires the Secretary of State to publish a list of habitats and species that are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers such as local planning authorities, in implementing their duty under Section 40 of the Act, to have regard to the conservation of biodiversity in England, when exercising their normal functions. 56 habitats and 943 species of principal importance are included on the S41 list. These are all the habitats and species in England that were identified as requiring action in the UK Biodiversity Action Plan (BAP).

National Planning Policy Framework 2024

The National Planning Policy Framework (NPPF) sets out the view of central government on how planners should balance nature conservation with development and helps ensure that government meets its biodiversity commitments with regard to the operation of the planning system.

Section 15 of the NPPF sets out key policy requirements regarding ecology and development, stating that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”.

The Protection of Badgers Act 1992

The legislation affording protection to badgers is primarily concerned with animal welfare and the need to protect badgers from activities such as baiting and deliberate harm. The Protection of Badgers Act 1992 makes it an offence to:

Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so;

To intentionally or recklessly interfere with a sett (this includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it).

As with The Wildlife and Countryside Act 1981 (as amended), there are several defences to prosecution in the legislation and the text should be consulted for details of these. Penalties for offences include fines up to £5,000, plus up to six months imprisonment for each illegal sett interference, or badger death or injury.

Hedgerows Regulations 1997

Important’ hedgerows (as defined by the Regulations) are protected from removal (up-rooting or otherwise destroying). Criteria specified in the regulations are employed to identify ‘important’ hedgerows for wildlife, landscape or historical reasons.

Office of the Deputy Prime Minister 06/2005

Paragraph 99 of the ODPM 06/2005 states that “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

Biodiversity Net Gain

The Environment Act 2021 is the primary law requiring most developments in England to deliver at least a mandatory 10% Biodiversity Net Gain (BNG). This is measured using the statutory Metric, which quantifies habitat value before and after development based on distinctiveness, condition, extent, and strategic significance. The Act also supports habitat banking for off-site compensation and emphasises alignment with locally led Local Nature Recovery Strategies



(LNRS). Public authorities, including Local Planning Authorities (LPAs), have a statutory duty to consider biodiversity conservation in their decisions, reinforcing BNG's importance in planning.

The metric calculates biodiversity loss or gains by comparing pre- and post-development habitat unit scores. Post-development calculations include standard risk multipliers accounting for habitat creation risks, establishment time, and location relative to lost habitats. These multipliers reduce the value of proposed habitats, necessitating larger or higher-quality areas to achieve net gain.

BNG delivery is integrated into the Town and Country Planning Act 1990. LPAs are required to mandate pre-commencement Biodiversity Gain Plans detailing how the 10% gain will be achieved and maintained for over 30 years. BNG compliance is a critical material planning consideration, with non-compliance potentially leading to enforcement. Secondary legislation, like the Biodiversity Gain (Town and Country Planning) (England) Regulations 2024, and comprehensive guidance from Natural England and Defra provide implementation details, emphasising the legally defined mitigation hierarchy (avoid, minimise, mitigate, compensate), additionality, measurability, long-term management, LNRS alignment, and the "polluter pays" principle. The regulations also address specific scenarios for small sites, irreplaceable habitats (where offsetting is exceptionally difficult), and brownfield land.