



ECOLOGICAL ADVICE SERVICE

TO: *Ethan Bonthron*

FROM: *Jonathan Lynch*

DATE: *30 April 2025*

SUBJECT: *20250139 / Land Adj To Rose Cottage Milton Road Gravesend Kent DA12 2PP*

The following is provided by Kent County Council's Ecological Advice Service (KCC 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 if sufficient/appropriate ecological information has been provided.

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.

SUMMARY – NO FURTHER INFORMATION REQUESTED

We have reviewed the ecological information submitted in support of this application and advise that **no further** information is requested from the applicant prior to determination of the planning application.

Proposed biodiversity gains (tree and hedgerow planting) are located within residential curtilage and cannot be counted towards the development's 10% BNG. This does not need to be addressed at this stage, but will need to be remedied when the deemed condition of biodiversity net gain is discharged (pre-commencement).

ECOLOGICAL CONSTRAINTS AND MITIGATIONS

No ecological information has been submitted with this application. As a result of reviewing the data available to us and the information submitted with the planning application, we advise that none will be needed. No impacts to protected/priority species are anticipated

as a result of the proposed development as the site is entirely composed of short-sward grassland.

DESIGNATED SITES

The application falls within the zone of influence of the Thames Estuary & Marshes SPA/Ramsar (1.5km east). As such, the North Kent Strategic Access Management and Monitoring Strategy¹ applies and the applicant will be required to make a tariff payment based on the net number of additional dwellings proposed to mitigate additional recreational effects on the designated sites.

Gravesham Borough Council must consider the impact the proposal will have on these designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework (NPPF) 2024 by carrying out a full Habitat Regulations Assessment (HRA).

A recent decision from the CJEU (C-323/17) has detailed that mitigation measures cannot be considered when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that there is a need for the local planning authority to carry out an appropriate assessment as part of a full HRA.

BIODIVERSITY NET GAIN (BNG)

Under the Environment Act 2021 and the Town and Country Planning Act 1990 (as amended), all planning applications received in England (with a few exemptions) must deliver at least a 10% biodiversity net gain (BNG) from the 12th February 2024 and all minor applications from the 2nd April 2024. Where required, the Statutory Biodiversity Metric will need to be used to demonstrate a minimum 10% biodiversity net gain. Local policy may request a higher level of net gain. Significant gains will need to be secured for at least 30 years.

Biodiversity net gain is a statutory requirement of this proposed development. References to the biodiversity value of any habitat or habitat enhancement are to its value as calculated in accordance with the biodiversity metric.

The question has been raised in sections 1.13 and 1.14 of the Biodiversity Net Gain (BNG) Statement (for validation) (BCM Wilson Hill, January 2025) as to whether onsite tree removals which occurred sometime in 2020 constitute unauthorised habitat degradation under The Town and Country Planning Act 1990, Schedule 7A (Sections 6 and 6B²).

¹ [Thames Estuary and Marshes | Nature conservation and landscape – Gravesham Borough Council](#)

² The Town and Country Planning Act 1990, Schedule 7A (6 and 6B) seeks to discourage developers from engaging in site clearance prior to making a planning application. This legislation essentially states that if habitat degradation/loss has occurred on an application site on or after 30 January 2020, *"the pre-development biodiversity value of the onsite habitat is to be taken to be its biodiversity value immediately before the carrying on of the activities."* **This rule does not apply if the activities were carried out in**

Given this site clearance was permitted under APP/K2230/W/22/3297316 in 2022, we would consider it to be authorised (even though this permission was not carried out).

As such, the baseline calculations provided in the submitted Small Sites Metric (Richard Holmes, January 2025) are accepted. These describe the application site as being composed of 421m² vegetated garden and 84m² developed land, with a baseline biodiversity unit value of 0.0842.

The submitted biodiversity metric indicates that the proposed development will result in an increase in developed land of 249m² as well as the creation of 18m² modified grassland (with 238m² vegetated garden retained). A 126.48% biodiversity net gain is anticipated as 447.64m² of trees will be planted onsite. These are clearly within residential curtilage and therefore cannot be counted towards the development's 10% BNG³. Offsite gains will likely be required. A revised approach to delivering BNG can be provided when the below deemed condition is discharged:

GENERAL BNG CONDITION (APPLIES BY DEFAULT): *The development hereby permitted is subject to the general condition of planning permission relating to biodiversity gain as per Schedule 7A 13(1) of the Town and Country Planning Act 1990. The condition is that the development may not be begun unless—*

- (a) a biodiversity gain plan has been submitted to the planning authority, and*
- (b) the planning authority has approved the plan.*

The condition cannot be varied or removed. An application must be made to discharge it as any other condition.

A Landscape and Ecological Management Plan (LEMP) condition is also recommended to ensure onsite tree/hedgerow planting establishes. This does not imply that these measures can be counted towards the development's 10% BNG as they would have been required under the NPPF 2024 (para. 187[d]) anyway.

SUGGESTED LEMP CONDITION: *Prior to first occupation of the development hereby approved, a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall accord with the measures outlined in the Proposed Site Plan and Block Plan (Edgington Architectural Services, February 2025) associated with the planning application and shall include details of the following:*

accordance with planning permission before 25 August 2023. This rule also does not apply if the activities were carried out in accordance with planning permission after 25 August 2023, but in this case only if the consented development has been completed.

³ It is not possible to deliver biodiversity gains in private gardens (within residential curtilage) as any habitats created/enhanced cannot be legally secured for 30 years. All created habitat within private gardens should be considered 'vegetated garden' (as required under the Statutory Biodiversity Metric User Guide, page 51) in the habitat creation/enhancement tabs of the biodiversity metric.

- *Habitat creation measures, including full details of tree, shrub and hedgerow planting;*
- *A full planting schedule utilising primarily native species;*
- *Full details of biodiversity enhancements (which may include provision of durable and suitably-placed bat/bird boxes, hedgehog highways);*
- *Rolling, long-term maintenance measures covering up to a 5-year period; and*
- *Details of responsible persons.*

The approved plan shall be implemented as described and retained thereafter.

Reason: In accordance with paragraph 187(d) of the NPPF 2024.

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

Jonathan Lynch
Biodiversity Officer

This response was submitted following consideration of the following documents:

- Biodiversity Net Gain (BNG) Statement (for validation) (BCM Wilson Hill, January 2025)
- Existing Site Plan, Block Plan & Location Plan (Edgington Architectural Services, December 2024)
- Proposed Site Plan and Block Plan (Edgington Architectural Services, February 2025)
- Small Sites Metric (Richard Holmes, January 2025)