



ECOLOGICAL ADVICE SERVICE

TO: Katherine Parkin
FROM: Lucy McGinley
DATE: 14 September 2026
SUBJECT: 20260352 – Land to the Rear of Brook Road

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 – SUFFICIENT INFORMATION

We have reviewed the information submitted by the applicant and advise that sufficient **ecological and biodiversity net gain** information has been provided for determination. Recommended **condition/informative** wording is provided below.

Developer contributions will need to be provided to mitigate for recreational pressure within the zone of influence of designated sites of international importance.

BATS

Bats and their roosts are fully protected from disturbance and harm through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). Some species of bat (including Bechstein's, noctule, soprano pipistrelle and brown long-eared) are also listed under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 as Species of Principal Importance for conservation. Local planning authorities must have regard for the conservation of Section 41 species and all bat species as part of their planning decisions¹⁵.

The application site has been identified within the PEA by Martin Townsend on 7/11/2019 that whilst there are no suitable lofts, wall cavities and minimal crevices of suitability for

bats, as well as disturbance from the urbanised area, the possibility of bats – especially those commuting or foraging – cannot be ruled out. Additionally, the felt roof on the external shelter area of the existing structure is overhanging and has been identified as potentially acting as refuge for bat populations. Surrounding habitat of dense scrub is suitable for supporting commuting and foraging bat species. The PEA provided highlights that the suitability of the application area is of low suitability, meaning that there is still the potential for the area to support bat species.

The updated EclA completed by ECOAssistance (August, 2026) indicates that the walkover survey identified the flat roof brick garage (named as B1 in the report) as having low BRP, with the corrugated sheet metal garage (named as B2 in the report) having a prefabricated metal storage container with negligible bat roost potential. It is assumed that two of the buildings that were previously present have been removed and replaced with the storage container. Due to the low potential of B1, a Bat Emergence Survey (BES) was completed on 27/07/26, which showed low levels of bat activity including some foraging were recorded over and around the site. Only common pipistrelle *Pipistrellus pipistrellus* and soprano pipistrelle *Pipistrellus pygmaeus* were recorded. No bats emerged from B1.

As no bats emerged from the buildings, we are satisfied that no further surveys are required. However, we recommend that bats are included within a Precautionary Working Methods Statement (PWMS), with conditioning for an Artificial Lighting Strategy to compensate for foraging/commuting bat populations.

REPTILES

All British reptiles are protected from killing/injury by the Wildlife and Countryside Act 1981 (as amended) and are listed as being of principal importance for conservation under Section 41 of the Natural Environment and Rural Communities Act (2006).

The application area had been identified to be mostly of a built-up mixed scrub area with a lot of opportunity for refugia for reptiles. Particularly as it has been identified within the PEA that within 200m of the application site there has been breeding Slow Worm populations at Copperfield Academy. It cannot be ruled out that if suitable habitat is present that some of the previously found population may have relocated to the dense shrub area of the application site.

The EclA highlights that during a reptile survey no reptiles were identified or found, and as such can be assumed that the species are present in low populations or entirely absent.

Whilst we acknowledge that there were no reptiles identified on the day of the site walk out, the potential for reptiles to be found on site cannot be ruled out and should therefore be included within a Precautionary Working Methods Statement (PWMS).

PRECAUTIONARY WORKING METHODS STATEMENT (PWMS)

We understand that the site is low risk due to low potential for protected species to be impacted on site and minimal vegetation clearance. Therefore, to protect from limited adverse impacts to protected and priority species during clearance and construction we recommend a precautionary works method statement is a condition with the suggested wording below.

Suggested Condition Wording:

From commencement of works (including site/vegetation clearance), and for the duration of construction, all mitigation for bats, breeding birds, other mammals, and reptiles shall be carried out in accordance with the details contained in Appendix 1. Precautionary Working Methods Statement in the Ecological Impact Assessment by ECOAssistance, August 2026.

ARTIFICIAL LIGHTING STRATEGY

Lighting in the vicinity of a bat roost or along commuting / foraging routes could constitute an offence both to a population and to individuals. Artificial lighting has been shown to be particularly harmful to bats along river corridors, near woodland edges and near hedgerows¹¹. Local authorities have a duty to ensure impacts upon legally protected species are avoided and impacts upon bats are a material consideration in any planning permission under the Natural Environment and Rural Communities (NERC) Act 2006 and through the NPPF 2026¹².

Therefore, to mitigate against potential adverse effects on biodiversity, the Bat Conservation Trust/Institute of Lighting Professionals' 'Guidance Note 8 Bats and Artificial Lighting at Night' (or subsequent updates) should be consulted in the lighting design of the development.

We advise that the incorporation of sensitive lighting design for biodiversity is submitted to the local planning authority and secured via an attached condition with any planning permission.

Suggested Condition Wording:

Prior to occupation, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the local planning authority. The plan shall show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the approved plan and shall be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light in accordance with the NPPF 2026.

DESIGNATED SITES

SPECIAL AREA OF CONSERVATION (SAC)/SPECIAL PROTECTION AREA (SPA)/RAMSAR

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are protected by the Conservation of Habitats and Species Regulations 2017 (as amended). Proposed SACs, potential SPAs, Ramsar sites (listed and proposed), and areas secured as sites compensating for damage to a National Site Network site are given the same protection as per the NPPF 2024, paragraph 195. This requires that, in line with Regulation 63 of the CHSR 2017:

63.— (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- a. is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - b. is not directly connected with or necessary to the management of that site,
- must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

RECREATIONAL DISTURBANCE

The application site falls within the 6km of influence of the Thames Estuary and Marshes Special Protection Area and its/their associated Wetland(s) of International Importance under the Ramsar Convention (Ramsar Site).

This type of development may cause additional recreational disturbance, and likely significant effects on birds using the SPA and Ramsar sites. As such, the North Kent Strategic Access Management and Monitoring Strategy (SAMMS for Medway, Swale, Thames Estuary) applies and the applicant will be required to make a tariff payment which is based on the net number of additional dwellings/overnight accommodation proposed. The payment is to mitigate for additional recreational effects on the designated sites. The local planning authority must ensure that adequate means are in place to secure this mitigation before first occupation.

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 (CHSR) 2017 (as amended) and the National Planning Policy Framework (NPPF) 2024.

A decision from the Court of Justice of the European Union (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 Habitats Regulations Assessment (HRA).

BIODIVERSITY NET GAIN SELF-BUILD EXEMPTION

The applicant considers the proposals to be exempt from statutory biodiversity net gain under the self-build exemption. For this exemption to apply, the proposals must:

- consist of no more than 9 dwellings;
- on a site that has an area no larger than 0.5 hectares; and
- consist exclusively of dwellings that are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015

It is not within our remit to verify that the proposed dwelling(s) meet the definition of self-build or custom housebuilding as defined in the 2015 Act. The LPA should therefore ensure that the proposals meet the definition and that a mandatory 10% biodiversity net gain does not apply.

Government guidance on self-build and custom housebuilding indicates that *"[in] considering whether a home is self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design*

and layout ... Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing”.

A recent appeal decision¹⁴² indicates that a “*suitably robust mechanism such as a planning obligation/legal agreement or other means*” is necessary to properly secure a development as self-build and to prevent it reverting to an open market dwelling where a mandatory 10% biodiversity net gain would otherwise apply.

ECOLOGICAL ENHANCEMENTS

Other biodiversity enhancement measures, which are unrelated to BNG, are detailed in the submitted EclA and include the following:

- native species planting
- bird boxes
- a bat box suitable for common urban bat species
- small gaps beneath garden boundaries where secure and appropriate to allow movement through the site by hedgehog and other small mammals.

Policy N2 (NPPF 2026) states to contribute positively to the natural environment, and support nature’s recovery, development proposals should: *Minimise any adverse impacts on biodiversity and include features which support priority or threatened species such as swifts, bats and hedgehogs. Development proposals should incorporate integrated nest boxes (commonly known as swift bricks) into their construction unless there are compelling technical reasons which prevent their use, or would make them ineffective.*

EVIDENCE OF IMPLEMENTATION - BEP

Suggested Condition Wording:

Within six months of first use of the development hereby approved, a completion report produced by a suitably qualified ecologist and including photographic evidence of the implementation of the approved biodiversity enhancement measures as required by condition the BEP condition shall be submitted to the local planning authority for approval. The approved measures shall be thereafter retained.

Reason: To protect and enhance biodiversity in accordance with Policy N2 of the National Planning Policy Framework 2026, and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

Lucy McGinley
Biodiversity Officer

This response was submitted following consideration of the following documents:

- Preliminary Ecological Assessment, Martin Townsend, Nov19
- Application Form, DAC Architects, Mar26
- Design and Access Statement, DAC Architects, Mar26
- Ecological Impact Assessment, ECOAssistance, Aug26