



ECOLOGICAL ADVICE SERVICE

TO: *Alison Webster*

FROM: *Jonathan Lynch*

DATE: *17 December 2024*

SUBJECT: *20240826 / Commority Farm, Harvel 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 – FURTHER INFORMATION REQUESTED

We have reviewed the ecological information submitted in support of this application and advise that **further** information is requested from the applicant prior to determination of the planning application. This includes:

- A Statutory Biodiversity Metric completed by a suitably qualified ecologist; and
- An Ecological Impact Assessment (EclA).

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 further information is sought from the applicant with regards to the potential for ecological impacts to arise.

The application site is located within Whitehorse Wood and Holly Hill Local Wildlife Site/potential ancient woodland. Local Wildlife Sites (LWS) are important for the conservation of wildlife at the county level. These are non-statutory designations which are generally recognised by local authorities and given weight and protection by inclusion in development plan policies in accordance with paragraph 192 of the National Planning Policy Framework (NPPF) 2024. Whitehorse Wood and Holly Hill LWS is designated for the following features:

- Diverse fungal flora;
- Active badger setts;
- Brown hare;
- Adder, slow worm and common lizard; and
- Numerous priority breeding bird species.

Deer Spring wood itself is not described as 'ancient' (i.e. continuously wooded since 1600AD) in its LWS citation (which we can provide on request) as it falls outside of the ancient woodland inventory boundary. Many small ancient woodlands of <2ha in area are not included in the ancient woodland inventory; this does not mean they are not ancient. The woodland is visible in OS maps going back to the 19th century and aerial imagery from the 1940s. If it is indeed an ancient woodland (which should be established as part of an Ecological Impact Assessment), then our standard guidance on ancient woodlands will apply. This guidance is included below in the form of an appendix.

In any case, the proposals fall squarely within the LWS boundary and the proposed barn is located within 15m of it, so it is concerning that the Design & Access Statement (BTF Partnership, undated) states in section 7.0 *"[the] site does not fall within any environmental, heritage or landscape designations"*. LWS boundaries are publicly available on KLIS.

The potential for protected species presence and impacts to irreplaceable habitats must be taken account of in the planning decision. As such, an Ecological Impact Assessment (EcIA) should be undertaken by a suitably qualified ecologist.

The EcIA will include the following:

- Details of the impacts of development proposals on the ecological baseline established via a Preliminary Ecological Appraisal (PEA) and any necessary additional surveys undertaken;
- Details of any necessary and achievable ecological mitigation and/or compensation measures;
- Details of ecological enhancement measures, and;
- Provision of sufficient information to determine whether the project accords with relevant nature conservation policies and legislation.

To ensure that the planning determination is adequately informed in respect of all potential ecological impacts, we advise that the EcIA is sought prior to determination of the planning application. This is in accordance with paragraph 99 of the ODPM Circular 06/2005 which states *“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

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 Defra Statutory 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. We are aware of discussions surrounding whether the *de minimis* exemption applies in this instance (as the hardstanding foundation of the barn already exists) and advise that it would not apply anyway, as the creation of access will result in the degradation/loss of >25m² in any case.

A copy of the Small Sites Metric (Stephen Jones, November 2024) has been submitted describing site as 0.2ha of modified grassland. This is not correct, as the entire redline boundary of the site needs to be included, meaning the LWS/potential ancient woodland through which access is proposed. We will require a full Statutory Biodiversity Metric filled out by a qualified ecologist given the sensitive nature of the site. Ancient woodlands are to be marked as irreplaceable habitat.

Grassland enhancement measures have been outlined in the metric and draft Biodiversity Gain Plan (Stephen Jones, November 2024); these are supported but the above issues are material so no condition wording is suggested at this point.

OTHER ENHANCEMENT MEASURES

Applicant notes in the draft Biodiversity Gain Plan that they *“will be fitting owl boxes to the building and providing platforms for sparrows and house martins.”* These measures are supported and can be secured with suitable condition wording.

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:

- Design & Access Statement (BTF Partnership, undated)
- DRAFT Biodiversity Gain Plan (Stephen Jones, November 2024)
- Small Sites Metric (Stephen Jones, November 2024)

GENERIC ADVICE ON ANCIENT WOODLANDS

The site lies adjacent to an ancient woodland. Paragraph 193(c) of the NPPF 2024 states: *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists*". We cannot advise as to whether these proposals are 'wholly exceptional', but we can advise on whether deterioration will result from the development and whether any proposed compensation is suitable.

When making its decision, the local planning authority should take into consideration the standing advice 'Ancient woodland, ancient trees and veteran trees: advice for making planning decisions' of Natural England and the Forestry Commission which recommends a 15m buffer between any development and ancient woodlands. Ancient woodlands and ancient/veteran trees needed to be protected with adherence to such measures as:

- putting up screening barriers to protect ancient woodland or ancient and veteran trees from dust and pollution;
- measures to reduce noise or light;
- designing open space to protect ancient or veteran trees;
- rerouting footpaths and managing vegetation to deflect trampling pressure away from sensitive locations; and
- creating buffer zones.

Regarding ancient woodland buffers, we refer to the Sandleford Park appeal (APP/W0340/W/20/3265460): *"The ancient woodland buffer should be at least 15m as measured from the edge of the woodland (that being from the fixed physical woodland boundary such as a fence, ditch, stream or other physical demarcation), or at least 15m from the edge of Natural England's ancient woodland inventory Magic Map Application (defra.gov.uk), whichever is the greater. For all ancient/veteran trees the buffer zone radius should be extended to measure at least 15 times the diameter of the tree or to at least 5m from the edge of the tree's canopy, whichever the greater."*

The Natural England and Forestry Commission standing advice states that the minimum 15m buffer zone between development and the boundary of any ancient woodland should include gardens. A larger buffer zone may be needed to account for any direct or indirect adverse effects associated with proposals, as well as to preserve the root protection area

of trees within the woodland. Larger buffer zones are more likely to be needed if the surrounding area is less densely wooded, close to residential areas or steeply sloped.