

Luddesdown Winery, Luddesdown Road, Gravesham,
Kent

Preliminary Ecological Appraisal

27th January 2023 / Ref No 2023/01/12

Client: MDCV UK



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1 Introduction

1.1 Background to the Scheme

KB Ecology Ltd was commissioned to undertake a baseline ecological survey and a preliminary ecological appraisal with regards to a proposed development at Luddesdown Winery, Luddesdown Road, Gravesham, Kent DA13 0XE in support of a planning application for a new car parking area in a field.

1.2 Survey Location/Area

The site is located at approximately TQ 671 665. The location of the site is shown on Figure 1 and Figure 2.

1.3 Survey Objectives

The purpose of this survey is to provide a scoping assessment and to assist in demonstrating compliance with wildlife legislation and planning policy objectives.

The key objectives are as follows:

- 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 further surveys where assessed as necessary and suggest potential enhancements.
- Present the likely significance of ecological impacts on the proposed development.
- Provide an early indication of potential ecological mitigation and compensation requirements necessary as part of any development proposals.

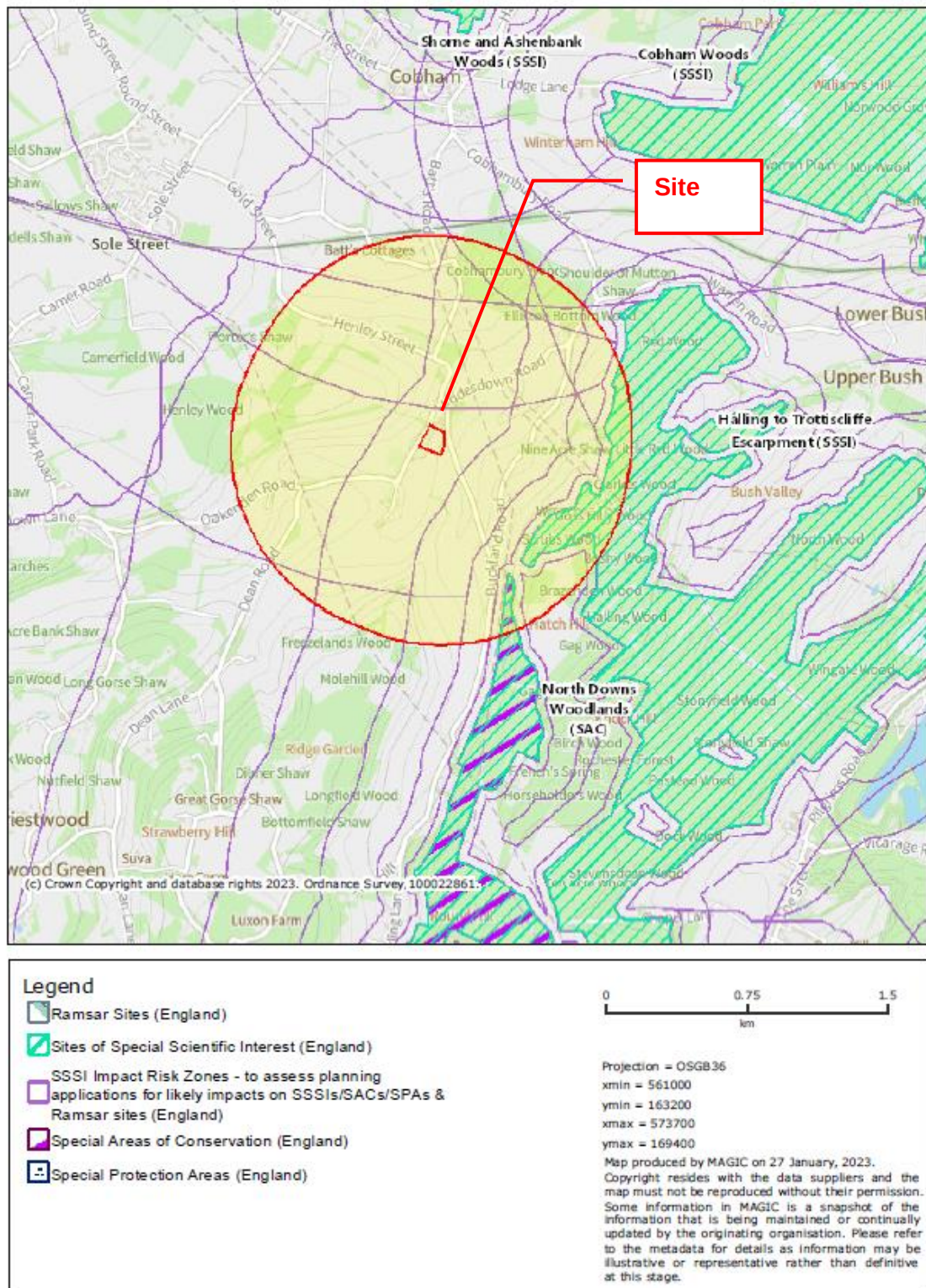
A summary of wildlife legislation and policy has been included in Appendix A.

1.4 Limitations

This report has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct and the opinions expressed are true and professional bona fide opinions. It records the potential for flora and fauna evident on the days of the site visits. It does not record any flora or fauna that may appear at other times of the year and, as such, were not evident at the time of visit.

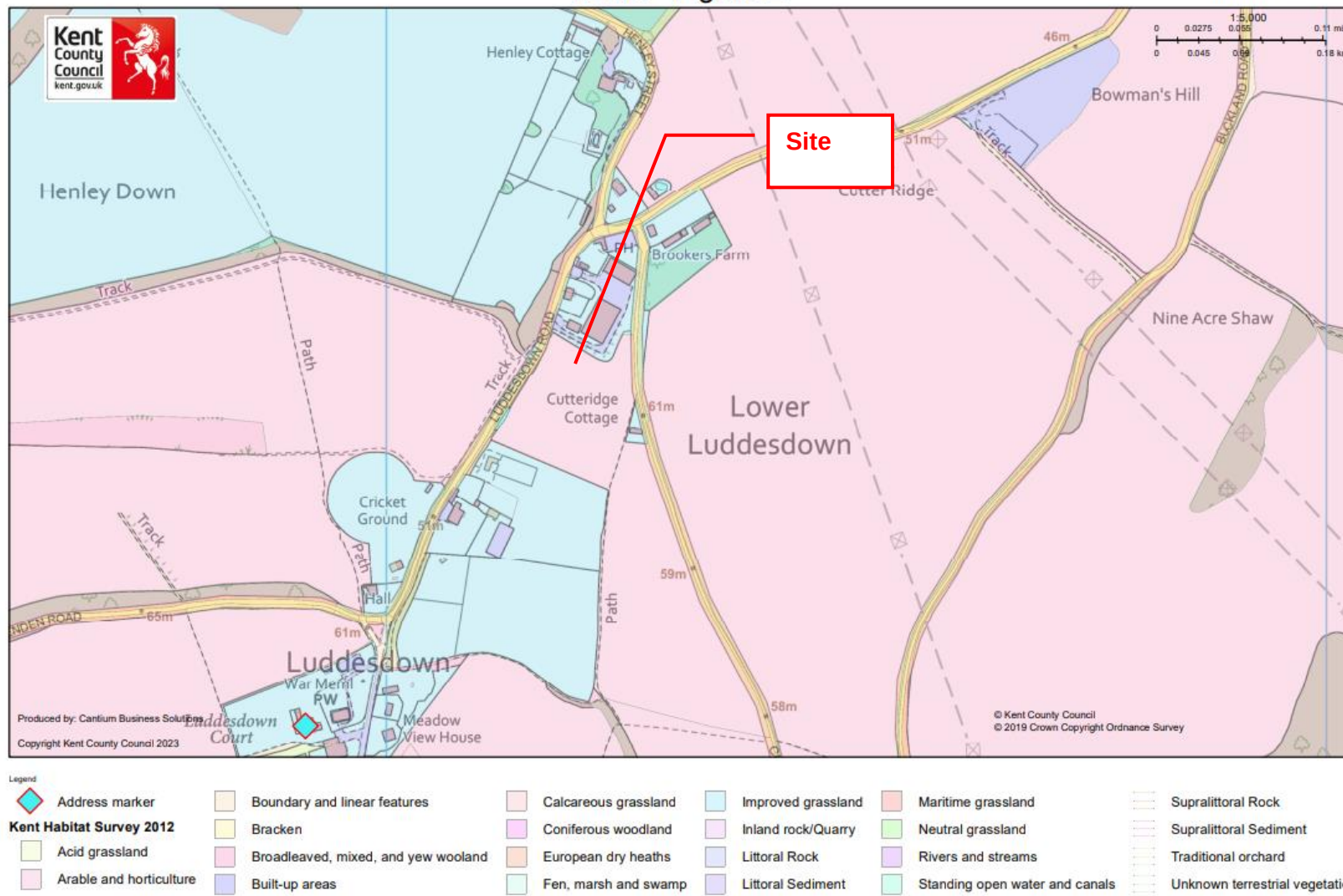
The findings of this report represent the professional opinion of a qualified ecologist and do not constitute professional legal advice. The client may wish to seek professional legal interpretation of the relevant wildlife legislation cited in this document.

Figure 1



K-LIS - Figure 2

January 27, 2023

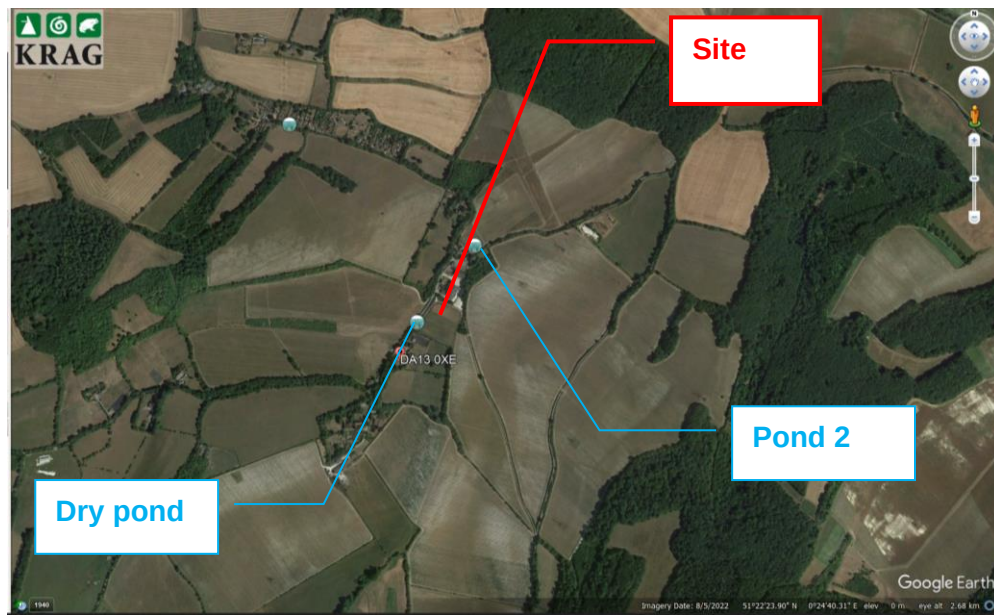


Preliminary Ecological Appraisal

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KB Ecology Ltd- January 2023

Figure 3: indicates location of ponds from Krag data search



2 Methodology

2.1 Desk Study

Internet-based resources were consulted to identify designated nature conservation sites within 1km of the site and habitats of potentially high ecological importance and sensitivity within 500m of the site (e.g. ancient woodlands, ponds).

A data search was carried out with the Kent Reptile and Amphibian Group KRAG^{1,2}.

2.2 Scoping Survey

The site and its immediate surroundings were considered in terms of habitats, protected species and species of principal conservation importance during a walkover survey undertaken on 23rd January 2023 by Katia Bresso CEnv MCIEEM, a qualified professional consultant ecologist with over 20 years of experience³, licensed bat surveyor (Class Licence CL19, Level 3, Registration Number: 2016-27133-CLS-CLS) and Registered Consultant of the Bat Mitigation Class Licence (BMCL) WML-CL21 with Natural England (Registered Consultant Reference Number RC056, since May 2015), licensed dormouse surveyor (Class Survey Licences Registration Number 2016-22060-CLS-CLS) and licensed great crested newt surveyor (Class Licence registration number 2020-50030-CLS-CLS). Evidence of the use of the site by species was recorded (i.e. field signs).

The habitat survey was undertaken in general accordance with Phase 1 Habitat Survey (JNCC 2010), i.e. within the survey area every parcel of land is classified, recorded and mapped in accordance with a list of ninety specified habitat types using standard colour codes to allow rapid visual assessment of the extent and distribution of different habitat types.

The survey and report aim at following the guidance and recommendations in the 'British Standard Biodiversity Code of Practice for Planning and Development (BS 42020: 2013)'.

All trees were also checked for suitability for roosting bats (from the ground only, using binoculars and an endoscope⁴).

¹ Please note that absence of records should not be taken as confirmation that a species is absent from the search area.

² Due to the scale of the project, it was judged disproportionate to undertake a costly data search with the local Biological Record Centre as the data would be unlikely to be relevant to this site.

³ Katia Bresso is a Suitably Qualified Ecologist with regards to Code for Sustainable Homes assessment and BREEAM

⁴ RIDGID CA-350x Inspection Camera System 63888

3 Baseline Ecological Conditions

3.1 Designated Nature Conservation Sites

The site is not part of, nor directly adjacent to, any statutory designated sites.

But 'Halling to Trottscliffe Escarpment' Site of Special Scientific Interest (SSSI) and the 'North Downs Woodlands' Special Area of Conservation (SAC⁵) are present 700m to the south-east of the site. The SSSI consists of an extensive area of the North Downs west of the 'Medway Gap'. The site is representative of Chalk grassland in west Kent and beech woodland on the chalk. Outstanding assemblages of plants and invertebrates are present. A mosaic of habitats is present at this site with areas of grassland, scrub and various types of woodland. The herb rich open downland is no longer grazed by stock and consequently only small areas remain. A full range of different types of scrub through to ash, yew, and beech woodland is present. The woodland includes mature beech and yew on the steep slopes, oak standards and predominantly sweet chestnut coppice with some hornbeam on the more level higher ground; these two types of woodland support contrasting ground floras.

3.2 Habitats

The site is surrounded by arable land (grape vines).

The Integrated Habitat System (IHS) classification of the Kent Habitat Survey 2012 describes the site as 'Arable and horticulture'. Indeed the site consists of a grassy field with three areas bounded by chicken fences, which are kept low through occasional sheep grazing and topping. The grass was short at the time of site visit. A low hedge (with hawthorn, hazel and elm, including a short section of young whips protected by rabbit guards) lines part of the west boundary, with a ditch⁶ leading to a dry pond in the south-west corner, with trees. To the entrance gate was an area of bare ground and excavations where a new electric sub-station is being built to power the adjacent winery, as well as a stockpile of earth. A line of trees separates the field from the buildings to the north, with dogwood, hazel, cherry and elder.

The ground flora included broad-leaved dock *Rumex obtusifolius*, cocks foot *Dactylis glomerata*, creeping bent *Agrostis stolonifera*, creeping buttercup *Ranunculus repens*, lettuce *Lactuca sp.*, perennial ryegrass *Lolium perenne*, spear thistle *Cirsium vulgare*, white clover *Trifolium repens* (i.e. 'Improved grassland' under Phase 1 Habitat Survey or 'Modified grassland' under the UK Habitat Classification System⁷).⁸

⁵ Special Areas of Conservation (SACs) are strictly protected sites designated under the EC Habitats Directive. Article 3 of the Habitats Directive requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended). The listed habitat types and species are those considered to be most in need of conservation at a European level (excluding birds).

⁶ Recently dredged

⁷ <https://ukhab.org/>

⁸ The site visit was undertaken at a time of year when most groundflora is not visible and thus a full assessment of the botanical quality of the site was not possible.

Plates are present in Appendix B. Figure 4 below shows the location of the habitats.

Legend of Phase 1 habitat survey map hereafter:

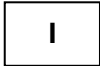
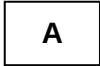
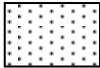
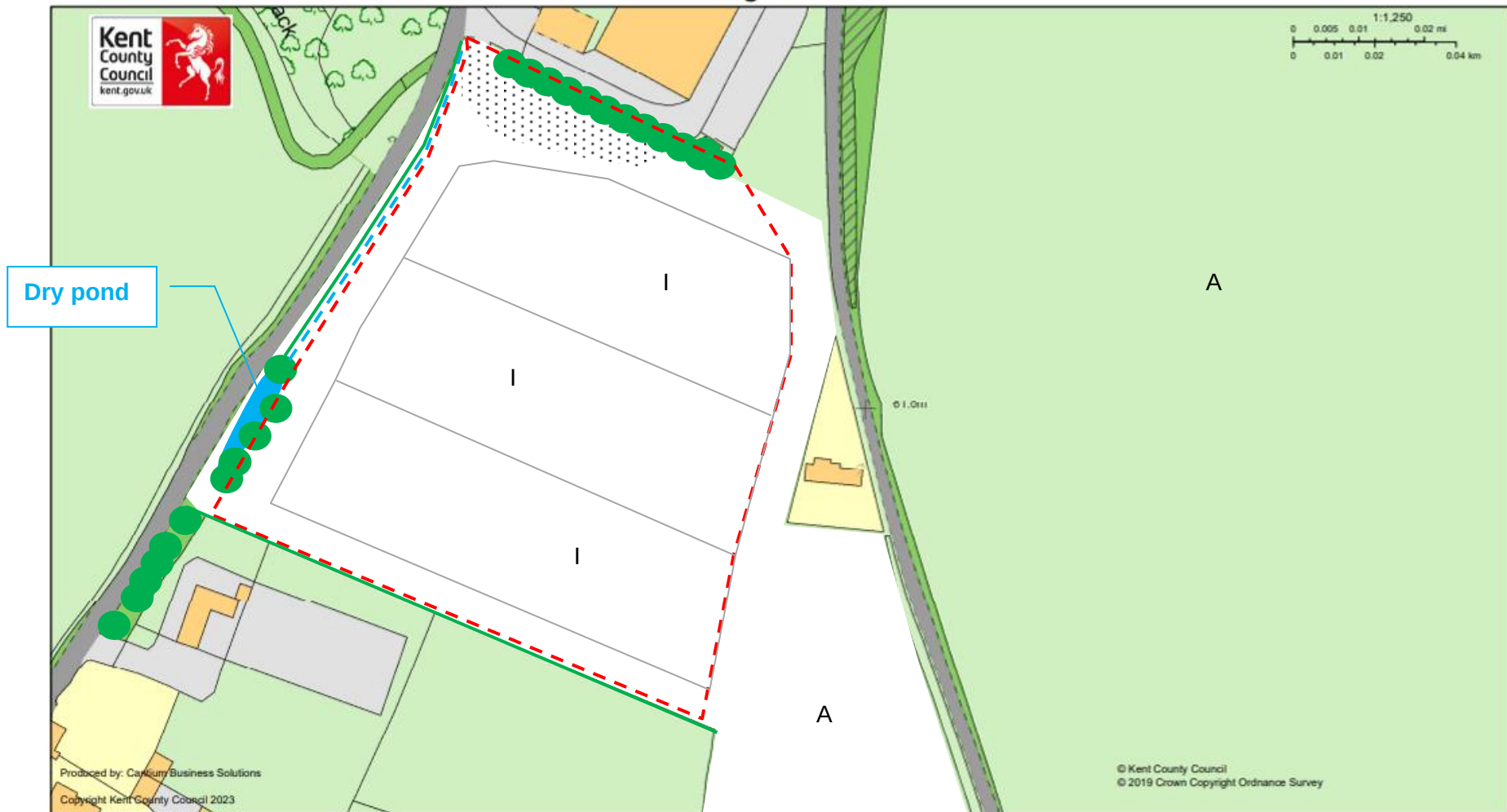
	Site boundary
	Individual tree (number and location approximate)
	Improved grassland
	Arable (grape vines)
	Bare ground

Figure 4

January 27, 2023





3.3 Amphibians

The data search carried out with Krag (Enquiry No: CES/23/020) revealed that the closest recorded Great Crested Newt *Triturus cristatus* site is located 2.72 km to the N (record id: 91305).

Great crested newts favour areas of high pond density and occupancy levels can exceed 40% of ponds when conditions are favourable. Krag's database risk assessment indicates that the likelihood of presence of great crested newts *in the overall area* is 'Possible'⁹, with only three ponds present within 1km.

Like nearly all amphibians, the great crested newt is dependent on water-bodies for breeding but usually spends most of its life on land.

The 'Great Crested Newt Mitigation Guidelines' (English Nature 2001) state the following: *'Great crested newts have been found to move over considerable distances (up to 1.3km from breeding sites). However, the vast majority of newts will inhabit an area much closer to the pond, and the exact distribution and migration patterns of newts on land depends on a variety of factors. The quality of terrestrial habitat near to breeding ponds is important, as are the lack of barriers to dispersal (such as fast-flowing rivers, or very busy roads). The distribution of ponds and hibernation opportunities may also influence movements. [...] Several studies have been conducted which reveal a great deal of variation, but great crested newts commonly move between ponds that are within around 250m of each other.'*

In *Advice for land managers*, Natural England (2007) states: *'Great crested newt may disperse several hundred metres, sometimes over 1km, from the breeding pond, though at most sites the majority of the population is normally found within around 100m of it.'*

⁹ Likelihood of Presence Scores are described using the following categories: Unlikely<Possible<Likely<High

Only one pond is shown present within 100m of the site and this is the dry pond along the road boundary (dry in winter thus unsuitable for great crested newts). There is one pond within 250m, present 200m north, on the other side of Brookers farm (Pond 2). No other ponds are present within 500m.

The Great Crested Newt Conservation Handbook, 2001 states that 'very short pasture is easily traversed by newts, and provides night time foraging, but little in the way of shelter' (Great Crested Newt Conservation Handbook, 2001). More optimal habitats include woodland, scrub, ditches, hedgerows, taller/rougher grassland.

Thus, even if great crested newts breed in Pond 2, they are unlikely to be present on site, due to the distance to the pond and the fact that there is more suitable terrestrial habitat nearer Pond 2.

Common amphibian species are afforded limited legal protection under the Wildlife & Countryside Act 1981 (as amended). The great crested newt is afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). It is also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 and are therefore a European Protected Species (EPS). Great crested newts and common toads are also listed as species of principal conservation importance (See Appendix A).

For more information, guidance from Natural England is available at <https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigation-for-development-projects>

3.4 Reptiles

The Krag datasearch revealed that the closest recorded reptile is Viviparous Lizard, located at Luddesdown LNR, 0.54 km to the S (record id: 14335). The likelihood of reptiles to be present *in the overall area* is judged as per table below:

Reptiles		
	Likelihood of Presence	
	Score	Dist (km)
Viviparous Lizard:	Likely	0.54
Slow-worm:	Possible	1.46
Sand Lizard:	unlikely	68.16
Grass Snake:	Possible	1.90
Adder:	Likely	1.84
Smooth Snake:	n/a	n/a

Reptile survey effort in local area is considered to be below average. Results should be interpreted with caution.

The proposed development area consists of grassland, which is species poor, heavily managed and kept at a short sward, without a thatch layer. This habitat is considered unsuitable for common reptile species, due to a lack of cover from predators and foraging opportunities.

However a small number of reptiles could be present in the area of unmanaged grass along the hedges, trees and ditch, and, if present, they could hibernate under tree roots.

Common reptiles are afforded limited legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). They are also listed as species of principal

conservation importance (See Appendix A). The adder is also a Priority Species under the Kent Biodiversity Strategy¹⁰.

For more information, guidance from Natural England is available at <https://www.gov.uk/reptiles-protection-surveys-and-licences>

3.5 Birds

It is considered that the site has high potential to support breeding birds within the trees and hedges.

All species of bird whilst actively nesting are afforded legal protection under the Wildlife & Countryside Act 1981 (as amended) and special penalties are available for offences related to birds listed on Schedule 1. Some species are also listed as species of principal conservation importance, including sky lark, common cuckoo, house sparrow, tree sparrow and song thrush (See Appendix A).

For more information, guidance from Natural England is available at <https://www.gov.uk/wild-birds-protection-surveys-and-licences>

3.6 Hazel Dormouse

It is considered that the hedges and boundary trees have potential to support the hazel dormouse *Muscardinus avellanarius* due to connection to suitable woodlands (some being ancient woodlands¹¹) and known presence of the species near-by. However, due to the small size of the suitable habitat, it would only be a small part of an individual dormouse's range (Natural England/DEFRA indicate that the range of one dormouse home is 1 to 1.5 hectares of woodland or 300 metres of hedge¹²).

The dormouse is afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). It is also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 and are therefore a "European Protected Species" EPS). The dormouse is also listed as species of principal conservation importance (See Appendix A).

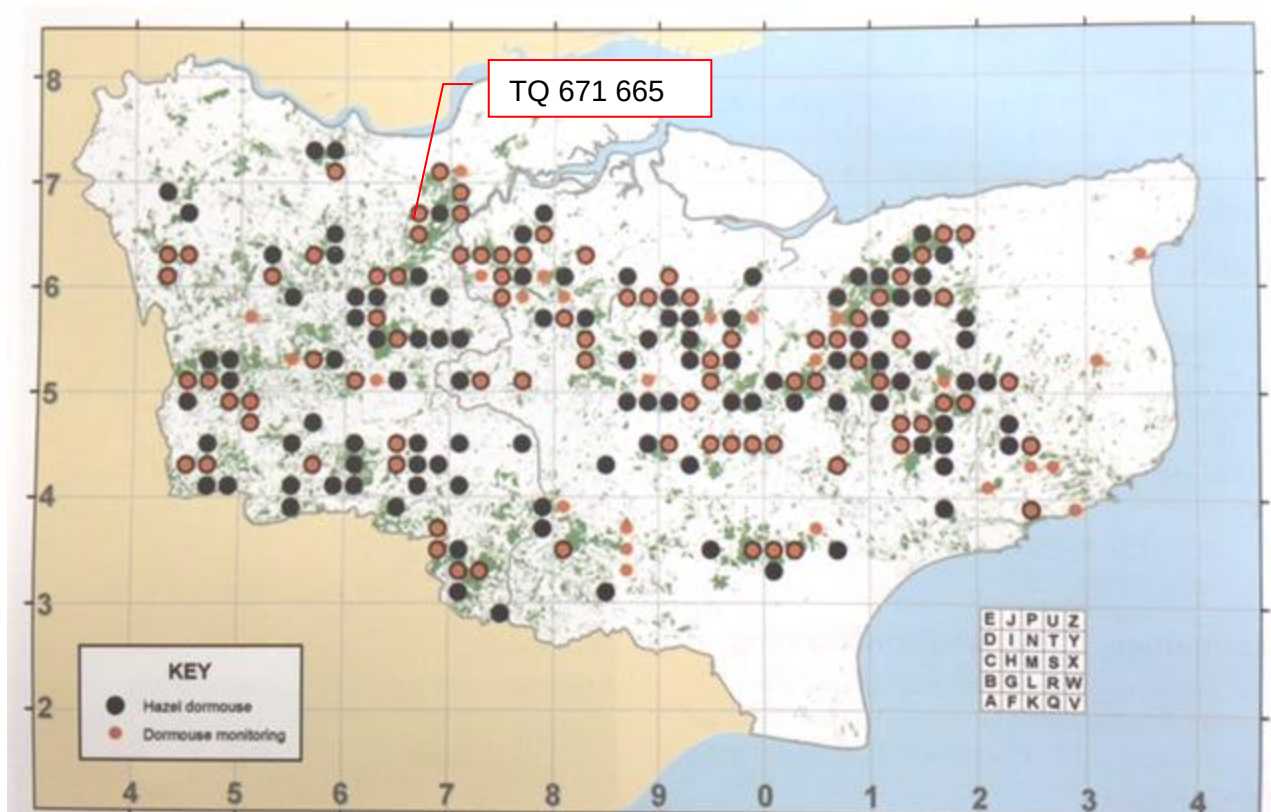
For more information, guidance from Natural England is available at <https://www.gov.uk/hazel-dormice-protection-surveys-and-licences>

Map showing known presence of dormice in Kent (from Mammals of Kent, 2015):

¹⁰ <http://kentnature.org.uk/uploads/files/Nat-Env/Kent%20Biodiversity%20Strategy%202020.pdf>

¹¹ Land that has had continuous woodland cover since at least 1600 AD

¹² <https://www.gov.uk/guidance/hazel-or-common-dormice-surveys-and-mitigation-for-development-projects>



3.7 Badger

No setts or signs of badgers *Meles meles* were identified during the survey.

3.8 Bats

None of the trees present on site offered suitability for roosting bats. But the surrounding area is likely to be used by foraging and commuting bats.

All species of bat are afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). They are also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 and are therefore a “European Protected Species” (EPS). Some species of bats (noctule, soprano pipistrelle, brown long-eared bat, barbastelle) are also listed as species of principal conservation importance.

The legislation makes it a criminal offence to:

- Deliberately capture, injure or kill a bat;
- Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats;
- Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time);
- Possess or advertise/sell/exchange a bat (dead or alive) or any part of a bat;
- Intentionally or recklessly obstruct access to a bat roost.

For more information, guidance from Natural England is available at <https://www.gov.uk/bats-protection-surveys-and-licences>

3.9 Other Species

It is considered that the surroundings have potential to support hedgehogs (*Erinaceus europaeus*), which are a Species of Principal Importance under Section 41 of the NERC Act (2008 updated list) and an Indicator Species under the Kent Biodiversity Strategy¹³.

All mammals are afforded protection against unnecessary suffering by the Wild Mammals (Protection) Act 1996 (see Appendix A).

¹³ <http://kentnature.org.uk/uploads/files/Nat-Env/Kent%20Biodiversity%20Strategy%202020.pdf>

4 Ecological constraints and opportunities, recommendations for mitigation, compensation and further survey

The details of the proposed development were not known at the time of writing this report.

The ecological mitigation hierarchy should be applied when considering development which may have a significant effect on biodiversity. Such hierarchy should follow these principles¹⁴:

1. Avoidance – development should be designed to avoid significant harm to valuable wildlife habitats and species¹⁵.
2. Mitigation – where significant harm cannot be wholly or partially avoided, it should be minimised by design or through the use of effective mitigation measures.
3. Compensation – where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, compensation should be used to provide an equivalent value of biodiversity.

Should the scope of the proposed works be amended following the completion of this scoping survey, or be deferred for an extended period of time, there may be a requirement to update this scoping report and its recommendations.

4.1 Designated Nature Conservation Sites

A site check report was generated for the site using the Impact Risk Zones on the Magic website¹⁶:

¹⁴ <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications#agree-avoidance-mitigation-or-compensation-measures>

¹⁵ Avoidance is always the preferred form of mitigation. It involves steps taken to avoid deliberate killing, injury or disturbance to bats and to existing roosts. The great majority of roosts are used only seasonally so there is usually some period when bats are not present and works can occur without impacting bats. By gathering ecological data about a bat roosting site at the start of development or maintenance works, it may be possible to 'design out' the impacts of a development by retaining the roosting site and building around it. Care should be given to ensure commuting routes to and from the roost are also retained and indirect impacts controlled for, such as the impact from the addition of artificial lighting.

¹⁶ The Impact Risk Zones (IRZs) dataset is a GIS tool which maps zones around each SSSI according to the particular sensitivities of the features for which it is notified and specifies the types of development that have the potential to have adverse impacts.

Natural England uses the IRZs to make an initial assessment of the likely risk of impacts on SSSIs and to quickly determine which consultations are unlikely to pose risks and which require more detailed consideration. Publishing the IRZs will allow LPAs, developers and other partners to make use of this key evidence tool.

<http://www.naturalengland.org.uk/ourwork/planningdevelopment/impactriskzonesgistoolfeature.aspx>

SSSI Impact Risk Zones - to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England)

1. DOES PLANNING PROPOSAL FALL INTO ONE OR MORE OF 2. IF YES, CHECK THE CORRESPONDING DESCRIPTION(S) BELOW. LPA SHOULD CONSULT THE CATEGORIES BELOW?	
All Planning Applications	
Infrastructure	Airports, helipads and other aviation proposals.
Wind & Solar Energy	
Minerals, Oil & Gas	Planning applications for quarries, including: new proposals, Review of Minerals Permissions (ROMP), extensions, variations to conditions etc. Oil & gas exploration/extraction.
Rural Non Residential	
Residential	
Rural Residential	
Air Pollution	Any industrial/agricultural development that could cause AIR POLLUTION (incl: industrial processes, livestock & poultry units with floorspace > 500m², slurry lagoons & digestate stores > 200m², manure stores > 250t).
Combustion	General combustion processes >20MW energy input. Incl: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/ combustion.
Waste	Landfill. Incl: inert landfill, non-hazardous landfill, hazardous landfill.
Composting	Any composting proposal with more than 500 tonnes maximum annual operational throughput. Incl: open windrow composting, in-vessel composting, anaerobic digestion, other waste management.
Discharges	
Water Supply	
Notes 1	
Notes 2	
GUIDANCE - How to use the Impact Risk Zones	/Metadata_for_magic/SSSI IRZ User Guidance MAGIC.pdf

Given the distance between the site and near-by SSSI/SAC sites, direct impacts to the qualifying features are unlikely. But it is recommended that a Construction Management Plan be implemented to minimise any dust, noise and light during construction.

4.2 Habitats

Trees to be retained should be protected during any construction work and guidance is given in the 'BS 5837:2012 Trees in relation to design, demolition and construction. Recommendations' document. This standard requires a tree protection plan to be developed which involves erecting physical barriers to prevent damage to existing trees, with an exclusion area around the trees. It also looks at defining a root protection area and requires consideration when compulsory work is carried out within the root protection area.

4.3 Amphibians

Pond loss is often seen as the most damaging impact on great crested newt populations, but the loss of terrestrial habitat can also have serious consequences. Great crested newts live on land for the majority of their lives, and so loss of terrestrial areas, particularly those close to the breeding pond, can be very damaging. The main effect of habitat loss is reduction in population size, reduced foraging opportunities, reduced refuge opportunities leading to exposure to predators or harsh conditions, and unsuccessful hibernation.

There are a number of development activities which can affect great crested newts, which should be fully considered at the application stage. Great crested newts can migrate more than 500 metres from their breeding ponds in areas of suitable terrestrial habitat. However, generally the scale of potential impacts will decrease as the distance from the breeding pond increases.

Natural England provides a rapid risk assessment tool to work out whether a licence will be needed.

Application tools: (1) "Do I need a licence?" - rapid risk assessment

Caveats and limitations

This risk assessment tool has been developed as a **general guide only**, and it is inevitably rather simplistic. It has been generated by examining where impacts occurred in past mitigation projects, alongside recent research on newt ecology. It is not a substitute for a site-specific risk assessment informed by survey. In particular, the following factors are not included for sake of simplicity, though they will often have an important role in determining whether an offence would occur: population size, terrestrial habitat quality, presence of dispersal barriers, timing and duration of works, detailed layout of development in relation to newt resting and dispersal. The following factors could increase the risk of committing an offence: large population size, high pond density, good terrestrial habitat, low pre-existing habitat fragmentation, large development footprint, long construction period. The following factors could decrease the risk: small population size, low pond density, poor terrestrial habitat, substantial pre-existing dispersal barriers, small development footprint, short construction period. You should bear these mitigating and aggravating factors in mind when considering risk.

It is critical that, even if you decide not to apply for a licence, you ensure that any development takes account of potential newt dispersal. Where great crested newts are present, landuse in that area must ensure there is adequate connectivity. Retaining and improving connectivity will often involve no licensable activities.

Guidance on risk assessment result categories

"Green: offence highly unlikely" indicates that the development activities are of such a type, scale and location that it is highly unlikely any offence would be committed should the development proceed. Therefore, no licence would be required. However, bearing in mind that this is a generic assessment, you should carefully examine your specific plans to ensure this is a sound conclusion, and take precautions (see **Non-licensed avoidance measures tool**) to avoid offences if appropriate. It is likely that any residual offences would have negligible impact on conservation status, and enforcement of such breaches is unlikely to be in the public interest.

"Amber: offence likely" indicates that the development activities are of such a type, scale and location that an offence is likely. In this case, the best option is to redesign the development (location, layout, methods, duration or timing; see **Non-licensed avoidance measures tool**) so that the effects are minimised. You can do this and then re-run the risk assessment to test whether the result changes, or preferably run your own detailed site-specific assessment. Bear in mind that this generic risk assessment will over- or under-estimate some risks because it cannot take into account site-specific details, as mentioned in caveats above. In particular, the exact location of the development in relation to resting places, dispersal areas and barriers should be critically examined. Once you have amended the scheme you will need to decide if a licence is required; this should be done if on balance you believe an offence is reasonably likely.

"Red: offence highly likely" indicates that the development activities are of such a type, scale and location that an offence is highly likely. In this case, you should attempt to re-design the development location, layout, timing, methods or duration in order to avoid impacts (see **Non-licensed avoidance measures tool**), and re-run the risk assessment. You may also wish to run a site-specific risk assessment to check that this is a valid conclusion. If you cannot avoid the offences, then a licence should be applied for.

Below are the risk assessments if great crested newts are present within 250m:

1. If land take is under 0.5ha:

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
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	

2. If land take is over 0.5ha:

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
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)	0.5 - 1 ha lost or damaged	0.3
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
Maximum:		0.3
Rapid risk assessment result:	AMBER: OFFENCE LIKELY	

Therefore, should land take be under 0.5ha, no impact is expected onto great crested newts.

However, should land take be over 0.5ha, then a great crested newt survey of Pond 2 should be undertaken to assess if an impact is likely.

Full great crested newt surveys involve undertaking four visits to establish presence / likely absence (six visit for population estimate, if they are indeed present) between mid-March and mid-June, with at least two of these visits between mid-April and mid-May. Depending on each individual pond, this may consist of refuge search (looking under log piles and other refuges), egg searching, bottle trapping over-night and torching at night, all activities to be undertaken during suitable weather conditions (i.e. little/no rain, ambient night time air temperatures >5°C). Alternatively, great crested newt Environmental DNA (eDNA) sampling could be undertaken (but this test only provides a presence/absence result, and gives no information about population size, should the species be present). It involves a GCN licence ecologist with suitable experience and training to collect water samples between 15th April and 30th June.

Should great crested newts be found, it will be necessary to undertake further surveys to assess the population size class and put together a mitigation strategy to minimise disturbance to the species and a Habitats Regulations licence (or a Natural England EPSM licence) will be needed to undertake the work. The mitigation strategy would entail fencing and trapping (for a minimum of 30 sessions for a low population and 90 for a large population, between March-October) prior to ground work starting, to minimise risk to animals. Insertion of habitat piles and pond management may be necessary.

Alternatively, it may be that the site can join a district level licensing scheme (pond surveys are not a requirement). The scheme permits acts, subject to licence conditions, including killing, injury, disturbance, capture and transport of GCN, as well as damage and destruction of their breeding sites and resting places. Impacts of development progressing under the Licence are being fully compensated for by off-site habitat provision that is being paid for by the developer and for this reason the Licence does not specifically require any on-site

avoidance or mitigation measures to be undertaken. However, where desirable, reasonable measures can be undertaken to minimise suffering to any GCN which may be present within or immediately adjacent to the development footprint¹⁷.

The applicant would need to let the Local Planning Authority know whether they will pursue the traditional EPS Licencing (if so, great crested newt surveys are needed) or the District Level Licencing (if so, they will need to submit a copy of the Impact Assessment and Conservation Payment Certificate from NE confirming that they have been accepted on to the DLL scheme).

4.4 Reptiles

Due to the low likelihood of reptile presence on site, the following precautionary mitigation strategy is proposed to minimise any potential impacts: it is recommended to prepare the development site using habitat manipulation as below:

- Any tree/shrub uprooting should be done outside of the hibernation season (taken to be November to March included);
- The works area should be mowed using hand held machinery only¹⁸ (to 15cm height minimum), during sunny conditions, during the reptile active season (April to October), in order to force the animals out of the area;
- A second cut should be given to ground level, 2 days following the first cut, during sunny conditions.

4.5 Birds

Although a breeding bird survey is not deemed to be necessary, on the basis that the site contains suitable habitat for breeding birds, consideration must be given to the timing of the clearance works, if any is to take place.

The effect on birds can be avoided by undertaking any vegetation clearance outside of the nesting season (which extends from March – August inclusive¹⁹) or only after a survey has confirmed the absence of nesting birds²⁰. New hedgerow/trees/scrub planted and bird nesting boxes erected as part of the proposed development can replace the habitat lost.

4.6 Hazel Dormouse

No hedge/tree clearance is expected on site therefore no further work is recommended with regards to dormice. Should this not be the case, there would be a need to check the vegetation for dormice nests prior to cutting back, as per standing advice from Natural England / DEFRA:

¹⁷ see <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes>

¹⁸ strimmer, brush-cutter

¹⁹ It should be noted however that certain species are known to breed throughout the year (e.g. collard dove) and remain protected.

²⁰ Inspection by a qualified ecologist must first be completed a maximum of 48hrs before clearance works commence. If during the inspection a nest considered to be in use is discovered, works must be delayed until the young have fledged.

Survey work can include:

- 
- visual searches for nests and opened hazelnuts - for smaller projects, such as creating gaps in hedgerows or removing a small amount of bramble scrub
 - using nest tubes and boxes - for more damaging projects or licence applications

If hazel dormice are found on part of the site, you can assume they're present in suitable habitats on the whole site.

<https://www.gov.uk/guidance/hazel-dormice-advice-for-making-planning-decisions>

4.7 Badger

No impact is expected onto badgers and thus no further work is recommended for this species. However, as sett use can fluctuate (with setts becoming active when were not previously and new setts appearing over time), a pre-commencement of works badger survey is recommended if they works take place less more than one year after the date of the site visit of this report.

4.8 Bats

No impact is expected onto bats and thus no further work is recommended for these species. However, as lighting can be detrimental to roosting, foraging and commuting bats²¹, the recommendations from the Bat Conservation Trust and the Institution of Lighting Professionals, titled 'Guidance Note 8 Bats and Artificial Lighting'²², should be considered, when designing any lighting scheme for the proposed development.

4.9 Other Species

There is some potential for hedgehogs to be present on site. Therefore any areas where mammals could be sheltering should be hand searched prior to disturbance. Excavations should be backfilled, covered overnight, or ramps placed in to allow any animals to escape.

4.10 Additional Recommendations: Enhancements

Ecological enhancements should where possible be incorporated into the proposed development to contribute towards the objectives of planning legislation.

The Government announced it would mandate net gains for biodiversity in the Environment Bill in the 2019 Spring Statement. The Environment Bill received Royal Assent on 9 November 2021, meaning it is now an Act of Parliament. Mandatory biodiversity net gain as set out in the Environment Act applies in England only by amending the Town & Country Planning Act (TCPA) and is likely to become law in 2023. Biodiversity net gain requires developers to ensure habitats for wildlife are enhanced and left in a measurably better state than they were pre-development. They must assess the type of habitat and its condition before submitting plans, and then demonstrate how they are improving biodiversity – such as

²¹ <https://www.bats.org.uk/about-bats/threats-to-bats/lighting>

²² <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>

through the creation of green corridors, planting more trees, or forming local nature spaces. Green improvements on site would be encouraged, but in the rare circumstances where they are not possible, developers will need to pay a levy for habitat creation or improvement elsewhere²³.

Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

Suggested biodiversity enhancements are listed below, as a palette for the developer to choose from:

- Provision of ready-made bird boxes²⁴ on retained trees;
- Planting of hedges with dormouse friendly species (using native species)²⁵.
- Establish wildflower plug/bulb planting in amenity grassland²⁶.
- Restore pond 1²⁷.

Priority should be given to habitats and species present on the Kent Biodiversity Strategy²⁸.

²³ <https://deframedia.blog.gov.uk/2019/03/13/government-to-mandate-biodiversity-net-gain/>

²⁴ Integrated nest boxes in new buildings are preferred as they provide longer term nesting opportunities.

²⁵ Possible species, which also provide food for dormice and grow relatively quickly, include bramble *Rubus fruticosus* agg., hawthorn *Crataegus monogyna*, honeysuckle *Lonicera* species, and hornbeam *Carpinus betulus*. Other species include hazel *Corylus avellana*, oak *Quercus* species, blackthorn *Prunus spinosa* and ivy *Hedera helix* (English Nature, 2006).

²⁶ Spring flowering bulbs and plugs of nectar rich flowering plants should be embedded into amenity grassland to increase the biodiversity and amenity value of the grassland and to provide early sources of nectar for insects. Suitable bulbs include Snake's head fritillary *Fritillaria meleagris*, Ramsons *Allium ursinum*, Snowdrop *Galanthus nivalis*, Primrose *Primula vulgaris*, Bluebell *Hyacinthoides non-scriptus*, Wild daffodil *Narcissus pseudonarcissus*, Lesser celandine *Ranunculus ficaria*

²⁷ <https://freshwaterhabitats.org.uk/pond-clinic/>

²⁸ <https://kentnature.org.uk/wp-content/uploads/2022/01/Kent-Biodiversity-Strategy-2020.pdf>

5 References and Bibliography

- Joint Nature Conservation Committee (2003). *Handbook for Phase 1 Habitat Survey: A Technique for Environmental Audit*. JNCC, Peterborough.²⁹
- English Nature (2004). *Research Reports Number 576: An assessment of the efficiency of capture techniques and the value of different habitats for the great crested newt Triturus cristatus*. English Nature, Peterborough

Websites Visited:

- <http://webapps.kent.gov.uk/KCC.KLIS.Web.Sites.Public/ViewMap.aspx>
- <http://www.magic.gov.uk/magicmap.aspx>
- <http://www.kentbap.org.uk/species/>

With kind permission from Google Earth Brand

²⁹ http://www.jncc.gov.uk/pdf/pub90_HandbookforPhase1HabitatSurveyA5.pdf

Appendix A – Wildlife Legislation & Policy

The following is a summary of wildlife legislation and planning policy which affords protection to plants and animals and seeks to conserve, enhance and restore biodiversity. This section is provided for general guidance only. While every effort has been made to ensure accuracy, this section should not be relied upon as a definitive statement of the law.

For further information, please see:

<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Commonly encountered protected species

Many species of plants, invertebrates and animals receive protection under the legislation detailed above. However, of these, the following are the most likely to be affected by development in the southeast:

Species	Legal Protection
Great crested newts and other amphibians	The great crested newt is afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). It is also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2019 (as amended) and is therefore a European Protected Species (EPS); further protection is afforded by the Countryside and Rights of Way Act 2000. Taken together, the legislation makes it a criminal offence to: • Deliberately capture (or take), injure or kill GCN • Deliberately or recklessly disturb GCN, in particular (i) any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; (ii) any disturbance which is likely to impair their ability to hibernate or migrate; or (iii) any disturbance which is likely to affect significantly the local distribution or abundance of the species. • Damage or destroy a breeding site or resting place - even if GCN are not occupying the place at the time; • Intentionally or recklessly obstruct access to a sheltering or resting place. An EPS licence is required from Natural England before works can be undertaken which will impact on GCN and/or their habitat (such as any damage to or removal of ponds, grassland, hedgerow bases or dense scrub in which they are likely to occur). Great crested newts and common toads are also listed as Species of Principal Importance under Section 41 of the NERC Act 2006.
Hazel dormice	The hazel dormouse is afforded full legal protection under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). It is also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2019 (as amended) and is therefore a European Protected Species (EPS); further protection is afforded by the Countryside and Rights of Way Act 2000. Taken together, the legislation makes it a criminal offence to: • Deliberately capture (or take), injure or kill hazel dormouse • Deliberately or recklessly disturb hazel dormouse, in particular (i) any

	disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; (ii) any disturbance which is likely to impair their ability to hibernate or migrate; or (iii) any disturbance which is likely to affect significantly the local distribution or abundance of the species. • Damage or destroy a breeding site or resting place - even if dormice are not occupying the place at the time; • Intentionally or recklessly obstruct access to a sheltering or resting place. An EPS licence is required from Natural England before works can be undertaken which will impact on dormouse and/or their habitat (such as any damage or removal of hedgerows, woodland or dense scrub in which they are likely to occur). Hazel dormouse is also listed as a Species of Principal Importance under Section 41 of the NERC Act 2006.
Bats	All British bat species receive full legal protection in the United Kingdom. The Conservation of Habitats and Species Regulations 2019 (as amended) legally protects all bat species in the UK and further protection is afforded by the Wildlife and Countryside Act 1981 (Schedule 5) and the Countryside and Rights of Way Act 2000. Taken together, the legislation makes it a criminal offence to: • Deliberately capture (or take), injure or kill a bat. • Deliberately or recklessly disturb a bat, in particular (i) any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; (ii) any disturbance which is likely to impair their ability to hibernate or migrate; or (iii) any disturbance which is likely to affect significantly the local distribution or abundance of the species concerned. • Damage or destroy a breeding site or resting place (roost) of a bat- even if bats are not occupying the roost at the time; • Intentionally or recklessly obstruct access to a roost; • Possess or advertise/sell/exchange a bat (dead or alive) or any part of a bat. An EPS Licence for bats is required where works are expected to contravene the above legal protection. Under the law, a roost is 'any structure or place used for shelter or protection'. For example any building or suitable tree. Bats use many roost sites and feeding areas throughout the year. Since bats tend to re-use the same roosts for generations, the roost is protected whether the bats are present or not.
Reptiles	The more widespread species of reptile – slow-worm, viviparous lizard, grass snake and adder - are afforded legal protection against killing and injury under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended). All six UK reptile species are listed as Species of Principal Importance under Section 41 of the NERC Act 2006.
Badgers	The Protection of Badgers Act 1992 was introduced in recognition of the additional threats that badgers face from illegal badger digging and baiting. Under the Act, it is an offence to: • Wilfully kill, injure or take a badger, or to attempt to do so; • Cruelly ill-treat a badger; or • Intentionally or recklessly interfere with a badger sett by (a) damaging a sett or any part of one; (b) destroying a sett; (c) obstructing access to or

	any entrance of a sett; (d) causing a dog to enter a sett; or (e) disturbing a badger when it is occupying a sett.
Breeding birds	The Wildlife & Countryside Act 1981 (as amended) protects all birds, their nests and eggs – it is an offence to intentionally kill, injure or take any wild bird or its eggs, and/or to take, damage or destroy the nest (whilst being built or in use). There is additional protection for rarer species – making it an offence to disturb any wild bird listed on Schedule 1 (such as hobby) while it is nest building, or at a nest containing eggs or young, or to disturb the dependent young of such a bird. Some species are also listed as species of a Species of Principal Importance under Section 41 of the NERC Act 2006, including skylark, common cuckoo, house sparrow, tree sparrow and song thrush.
Hedgehogs	Hedgehogs are listed on schedule 6 of the Wildlife and Countryside Act (1981) which makes it illegal to kill or capture wild hedgehogs. They are also listed under the Wild Mammals Protection Act (1996), which prohibits cruel treatment of hedgehogs Hedgehogs are a species of 'principal importance' under the NERC Act, the act confers 'a duty of responsibility' on local authorities with regard to the species.
Water voles	The Wildlife and Countryside Act 1981 (as amended). This makes it illegal to intentionally damage, destroy or obstruct access to any structure or place which water voles use for shelter or protection; it is also an offence to intentionally disturb water voles while they are using these places.

Kent Biodiversity Strategy

The Kent Biodiversity Strategy was approved by the Kent Nature Partnership in February 2020. It aims to deliver, over a 25 year period, the maintenance, restoration and creation of habitats that are thriving with wildlife and plants and ensure that the county's terrestrial, freshwater, intertidal and marine environments regain and retain good health.

The Strategy looks to protect and recover threatened species and enhance the wildlife habitats that Kent is particularly important for. It also aims to provide a natural environment that inspires citizen engagement and is well used and appreciated, so that the mental and physical health benefits of such a connection can be realised by the people of Kent.

The Strategy has identified 17 priority habitats and 13 priority species that Kent can play a significant part in the restoration of. It has also identified a handful of species that can act as indicators of the health of our ecosystems. In addition, the Strategy looks to further work addressing overarching considerations affecting biodiversity recovery, including wilding, climate change, natural solutions, soil health and invasive species.

Further information can be found here:

<http://kentnature.org.uk/uploads/files/Nat-Env/Kent%20Biodiversity%20Strategy%202020.pdf>

Red Data Books

British Red Data Books (RDB) are an additional method for classifying the rarity of species, and are often seen as a natural progression from Biodiversity Action Plans.

RDB species have no automatic legal protection (unless they are protected under any of the legislation previously mentioned). Instead they provide a means of assessing rarity and highlight areas where resources may be targeted. Various categories of RDB species are recorded, based on the IUCN criteria and the UK national criteria based on presence within certain numbers of 10x10km grid-squares (see <http://www.jncc.gov.uk/page-3425>). As with Biodiversity Action Plans, where possible, steps should be taken to conserve RDB species which are to be affected by development.

Appendix B – Plates



✔ IMG_4688



✔ IMG_4689



✔ IMG_4690



✔ IMG_4691



✔ IMG_4692



✔ IMG_4693



✔ IMG_4694



✔ IMG_4695



✔ IMG_4696



✔ IMG_4697



✔ IMG_4698



✔ IMG_4699



✔ IMG_4703 Pond 1



🔄 IMG_4704 SW corner gate



✔ IMG_4705



✔ IMG_4706



✔ IMG_4707



✔ IMG_4708



✔ IMG_4709



✔ IMG_4713



✔ IMG_4714



✔ IMG_4715



✔ IMG_4716



✔ IMG_4717



✔ IMG_4718



✔ IMG_4719



✔ IMG_4720



✔ IMG_4721



✔ IMG_4722



✔ IMG_4723



✔ IMG_4724



✔ IMG_4725



✔ IMG_4726