

Land at Rose Farm, Istead Rise 20251233

Response to KCC Ecological Advice Service, 16 July 2026

- 1.1 This document, prepared by Ecological Planning & Research on behalf of Esquire Developments, provides a technical response to further comments returned by Kent County Council's Ecological Advice Service (KCC EAS; 11 June 2026) in respect of the currently proposed residential development of Land at Rose Farm.

Veteran Trees

- 1.2 KCC EAS considers that "*it does not make sense*" to distinguish between the definitions and treatments respectively applied to 'veteran trees' by the National Planning Policy Framework (NPPF) and the Biodiversity Net Gain (Irreplaceable Habitat) Regulations 2024 (the "BNG Regs"), and consequently asserts that the policy protection afforded by paragraph 193(c) of the NPPF should be extended to three small fruit trees which are identified in the application material as 'BNG veterans' under the relatively broad BNG Regulations definition and for the specific purposes of the BNG assessment.
- 1.3 Due to their location within a field then occupied by potentially dangerous livestock, two of the trees in question, T89 and T90, were assessed from distance in the course of the botanical surveys undertaken to inform the proposed development, and precautionarily categorised as 'BNG veterans' on account of their apparent persistence from an orchard present in the mid-twentieth century and the occurrence of some deadwood in the crown – although neither the arboricultural assessment nor a subsequent close inspection for bat roost suitability has identified any significant cavities or decay features (see also **Plates 1 and 2** below).
- 1.4 T90, the only one of these trees which is proposed for removal, can accordingly be considered to meet only a precautionary application of the BNG Regs definition. As set out within the relevant application material and EPR's previous response, neither T90 nor the other two 'BNG veteran' fruit trees are capable of meeting the much more demanding definition provided by the NPPF and applied in the arboricultural assessment.
- 1.5 The proper approach to the treatment of veteran trees within the decision-making process was addressed in the Brislington Meadows, Bristol, Appeal (APP/Z0116/W/22/3308537). The Inspector in that case concluded that:

*"There are various definitions of veteran trees, for example in BS5837:20125. However, this is a planning appeal and **the relevant definition is that contained in the Framework**. The Framework defines ancient or veteran trees as trees which, because of their age, size and condition, are of exceptional biodiversity, cultural or heritage value (emphasis mine). The age, size and condition characteristics must therefore be considered separately. The exceptional value of a tree is not a separate characteristic but it is the reason why a tree can be considered to be veteran"* [EPR emphasis in bold].

- 1.6 The Inspector further clarified that:

*“Paragraph 180 of the Framework confirms that development that results in the loss or deterioration of veteran trees should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. This is a very high level of protection, higher than the protection given to National Parks or grade II listed buildings. It must therefore follow, as a principle of proportionality, that **the methodology for determining a veteran tree for the purposes of planning must set a high bar for defining exceptional biodiversity, cultural or heritage value.**”*

- 1.7 While KCC EAS considers that “*it does not make sense*” to distinguish between the NPPF and BNG Regs definitions, it is inarguable that the two definitions are materially different: the NPPF definition is intended to capture a relatively small subset of “*exceptional*” trees which meet the “*very high bar*” of the NPPF’s additive test, whereas the much broader BNG Regs definition extends to relatively unexceptional trees presenting some old growth features.
- 1.8 Contrary to KCC’s view, the two very different definitions exist in different contexts and have different applications:
- the NPPF definition pertains to the treatment of ‘veteran trees’ within the decision-making process (as set out by the Brislington Meadows Inspector);
 - the BNG Regs definition specifically pertains to the treatment of ‘veteran trees’ within the statutory BNG assessment process.
- 1.9 The separation of the respective definitions and respectively applicable assessment processes is a matter of accepted conventional practice, as exemplified by online guidance published by CSA Environmental¹, which accords with the approach taken in the current application.
- 1.10 If the reverse were true, and KCC EAS’s position was accepted, the much more selective definition provided by the NPPF would effectively be redundant when considered alongside the broad definition provided by the BNG Regs, and the consensus of current arboricultural practice - which continues to work toward the NPPF definition - would be in error. This is not the case: the BNG Regs do not have the effect of superseding the NPPF or of making new planning policy.
- 1.11 The separateness of the respective definitions, and of the contexts in which they apply, was recently considered in the Cotes Road, Barrow, Appeal (PP/X2410/W/25/3370033). In that case, Charnwood Borough Council’s Ecological Officer considered that ‘G36’ (which either comprised two trees or one double-stemmed) should be identified as a ‘veteran’ on the specific basis of its biodiversity value and for the specific purpose of the statutory BNG assessment. The Council’s Statement of Case (CD 4.13) asserted that “*tree G36, a black poplar identified as supporting both bat and barn owl roosts, and which is the subject of a TPO, should be classified as a veteran tree within the metric*”, and it was subsequently common ground between the principal parties that:

¹ <https://csaenvironmental.co.uk/2025/10/02/veteran-trees-navigating-bng-nppf/> (appended for convenience)

*“the trees represented by G36 have been classified as irreplaceable habitat **for the purposes of the BNG metric**”. For this reason, in the event that planning consent is granted, a bespoke compensation strategy will need to be agreed”* (Ecology SoCG, CD10.5).

- 1.12 By contrast, the Council's Senior Tree Officer and arboricultural expert did not recognise G36 as a veteran tree from an arboricultural perspective or in relation to the differing definition and planning refusal test applied by the NPPF:

“My site visit and visual inspection of 22 January 2026 was inconclusive as to whether the tree is veteran. There are veteran features including decay, cavities/hollows, fungi etc. but nothing that would lead me to be certain of its status either way” (Charnwood Borough Council Arboriculture Rebuttal Proof of Evidence, CD13.15).

- 1.13 G36 was accordingly recognised as a ‘veteran’ under the BNG Regs definition only, and only *“for the purposes of”* the metricated BNG assessment.
- 1.14 KCC EAS further asserts that the BNG veteran trees should be retained within buffers dimensionally accordant with the government's online planning policy guidance published in 2022². This guidance pre-dates the BNG Regs and is explicitly aligned with the NPPF veterancy definition - referring to trees with **“exceptional biodiversity, cultural and heritage value”**. It is intended to protect ‘exceptional’ NPPF veteran trees which may have developed very large root systems to support large canopies over the course of very long lives - and is clearly neither applicable nor proportionate to the protection of small trees of naturally short-lived orchard varieties.
- 1.15 In respect of the rationale for the proposed removal of T90, the applicant advises that:

“The challenging topography requires substantial cut and fill operations in this part of the site, with 1.6-2m of fill necessary to establish a suitable development platform and plot formation levels. This level change significantly influences the available developable area and the ability to accommodate dwellings, access, drainage infrastructure, and associated landscaping in a functional arrangement to make the most efficient use of land in accordance with paragraph 129 of the NPPF. The removal of T90 therefore represents a balanced and proportionate design approach, necessary to overcome site constraints and deliver a technically viable scheme. The loss of the tree will be mitigated through enhanced landscape proposals, replacement planting, deadwood habitat creation and ecological enhancements that contribute towards achieving the required 10% Biodiversity Net Gain, ensuring that a sustainable development is delivered that makes the most efficient use of land.”

Reptiles

- 1.16 The June 2026 KCC Ecology response introduces a new point of objection on the basis of an anecdotal sighting from a nearby domestic garden of a snake believed to be an adder due to a *“dark zig-zaggy pattern running along its back”*, and consequently recommends that the proposals incorporate 1.21ha of suitable reptile habitat – this being the approximate quantity which the site currently supports.

² <https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>

- 1.17 Unevidenced sightings of “adders” are a familiar feature of local resident objections to planning applications – the degree of credence that should correctly be attached to this information is very low.
- 1.18 The application site is largely occupied by arable land and intensively grazed and compacted horse paddocks, with the distribution of potentially suitable reptile habitat largely limited to marginal areas. The quality, setting, and interconnectivity of the habitat available is clearly not suitable to support a population of adder – a species which is only patchily distributed across Kent and southern England in general.
- 1.19 While no reptiles were recorded in the course of the 2025 survey programme, it is quite possible that the site is occasionally traversed by grass snake – a highly mobile species with less exacting habitat requirements, which commonly disperses over distances of several kilometres, including through gardens and suburban areas, to reach its hibernation, breeding, and feeding sites.
- 1.20 This dispersal activity will continue to be possible post-development, and, subject to detailed design, the proposed delivery of a mosaic of semi-natural habitat treatments across the relatively expansive open space provision, as indicated on the submitted Illustrative Masterplan, would elevate the site’s suitability and capacity to support common and widespread reptile species.

Breeding Birds

- 1.21 The applicant disagrees with KCC EAS’s view that insufficient information regarding breeding birds has been submitted to inform the determination of the application.
- 1.22 As set out within the submitted Breeding Bird Survey Report, four survey visits were undertaken during the peak breeding season between May and June 2025. These surveys were undertaken using established territory mapping methods and were considered proportionate to the scale, character and habitat composition of the site.
- 1.23 It is reiterated that the site is largely occupied by short, horse-grazed paddocks, alongside areas of hardstanding, gardens, and buildings, which collectively represent habitats that are inherently unsuitable for most breeding farmland bird species — particularly ground-nesting species. The site accordingly does not comprise 9.6ha of typical ‘farmland habitat’.
- 1.24 The baseline presented within the application material is entirely consistent with the ecological characteristics of the site and the bird assemblage using the site is evaluated as being of ecological importance at the Zone of Influence level only.
- 1.25 Dr David W. Smith, who is a recognised bird specialist and the lead ecologist for this project, has extensive professional experience of surveying farmland habitats across England since 2007, including numerous sites within Kent. This experience encompasses both small and large farmland parcels across a range of agricultural contexts. The applicant is therefore fully confident in the ecological evaluation presented, including the interpretation of bird assemblage data in a local and regional context.
- 1.26 In this regard, it is considered that the KCC EAS response places undue weight on theoretical survey expectations without sufficient regard to site-specific habitat context or the well-established autoecology and distribution of farmland bird species within Kent – as evidenced in

the annual Kent Bird Reports. For example, several farmland specialists (including species such as Tree Sparrow) only breed in a few isolated pockets in South Kent, perhaps East Kent, and perhaps around Marden - and the distribution of Grey Partridge records is similarly far removed from the vicinity of Istead Rise.

- 1.27 Notwithstanding the above, the proposed development will provide a range of tangible ecological enhancements for breeding birds in the form of a diverse mosaic of semi-natural habitats, including areas of extensively managed grassland, scrub, linear woodland, and traditional orchard habitat – as indicated within the Illustrative Masterplan. These features will provide nesting, foraging and shelter opportunities for a wide range of common and priority bird species, and will significantly increase structural habitat diversity – resulting in an improvement in ecological functionality in relation to the current baseline dominated by intensively grazed paddocks.
- 1.28 The functional importance of such habitats is well established in the scientific literature. Dr David W. Smith undertook his doctoral research on this subject and has also contributed relevant published work, including a chapter within the RSPB's *Farm Wildlife Handbook*. The applicant is therefore well placed to design and deliver habitat enhancements that provide genuine ecological benefit.
- 1.29 The submitted EcIA appropriately commits to standard measures to ensure compliance with the Wildlife and Countryside Act 1981 (as amended), including the avoidance of vegetation clearance during the nesting season or the implementation of pre-works checks where this cannot be avoided.
- 1.30 In summary, the Applicant considers that:
- The survey effort undertaken is proportionate and appropriate to the site context;
 - The ecological evaluation is robust and supported by both field data and professional expertise;
 - The site does not support a breeding bird assemblage of Local or higher importance;
 - The proposed development will deliver meaningful ecological enhancements for bird species;
 - The applicant therefore respectfully maintains that sufficient information has been provided to enable the determination of the application in respect of breeding birds.

Other Matters

The applicant will separately revert on the outstanding matters relating to badgers and potential bat tree roosts, pending further investigation.

Plate 1: T90



Plate 2: T89



Plate 3: T61





Veteran Trees

Navigating BNG and NPPF requirements

BNG Guide Series

What is a veteran tree?

Trees are described as **veteran** when they display features which are associated with a hard life, such as hollowing, large dead branches, missing/lifted bark, water pooling and fungi/plants growing on their surface. These features can be really beneficial for biodiversity, providing habitat for a range of species including invertebrates, bats, birds and fungi.

They are defined slightly differently by the **National Planning Policy Framework (NPPF)** - used in arboricultural assessments and the **Biodiversity Net Gain (BNG)** regulations - used in ecology.

HOW DO THEY DIFFER? ➡

Definitions

How old is ancient? It depends on the species, ranging from 150 years old for a birch to 800+ for a yew

NPPF	A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.
BNG	Veteran trees exhibit one or more of the following: i) Significant decay features such as deadwood, hollowing or signs of advanced decay in the trunk or major limbs, ii) a large girth, depending on and relative to species, site and management history, iii) a high value for nature, especially in hosting rare or specialist fungi, lichens and deadwood invertebrates.

The challenge

- A tree needn't be large to be a 'BNG veteran', and more trees may qualify as 'BNG veterans' than 'NPPF veterans', but recording both on site is essential.
- 'NPPF veterans' are considered irreplaceable, needing enlarged buffer to protect the habitats, as specified in the Natural England Standing Advice.
- 'BNG veterans' are included in biodiversity metric calculations, influencing habitat condition assessment for woodland, hedgerows and tree lines that contain them. They also often support roosting bats or birds, and add visual amenity.
- For NPPF ancient or veteran trees (including those on the woodland boundary), the buffer must be at least 15× the tree's diameter, or 5 metres beyond the canopy edge if that's greater.



4

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Insight: Identifying veteran trees early
minimises issues and informs better design.



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For further support contact our expert teams in Hampshire, Hertfordshire, Gloucestershire, South Yorkshire or Sussex