



ECOLOGICAL ADVICE SERVICE

TO: Rebecca Harrison

FROM: Marie Thibault

DATE: 14 January 2026

SUBJECT: Land Adj To & To The R Of Elm Close - 20251053

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.

DETAILED COMMENT

Artificial lighting

We are satisfied with the conclusions of the ecological report which state that none of the trees present on site offered potential for roosting bats and thus no further survey work is recommended with regard to bats.

However, nocturnal animals (including bats) may use the site and the surrounding area for foraging and commuting and any lighting associated with the proposal may have a negative impact, especially any light spill to hedgerow boundaries and trees on the site. We advise that a **condition** will be required for the external lighting and will require the following requirements:

- *Plan showing location of lighting and light spill*
- *Downward facing*
- *On a motion sensor (where possible)*
- *Follow the recommendations within Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23 Bats and Artificial Lighting at Night'¹*

Breeding birds

The site contains suitable habitat for breeding birds and all nesting birds are protected under the wildlife and countryside act 1981 (as amended).

We advise that there is a need for a breeding birds informative to be attached to the planning permission if granted. We suggest the following wording :

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees are likely to contain nesting birds between 1st March and 31st August inclusive. Trees are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

Reptiles

The site provides suitable habitat for reptiles to be present. A reptile survey was undertaken but no reptiles have been found and as such there is no requirement for any mitigation to be submitted.

Retained habitats

We advise that all trees to be retained within the proposed development shall be protected during construction in line with standard arboriculture best practice (BS5837:2012) and in line with the submitted arboricultural report.

We recommend incorporating the protection of the retained habitats in to the Construction Management Plan and to secure this as a condition of planning permission if granted.

¹ ['Bats and Artificial Lighting at Night' ILP Guidance Note update released - News - Bat Conservation Trust](#)

Recreational Disturbance And National Site Network Sites (Samms)

The application site falls within the 6km zone of influence of the Thames Estuary and Marshes Special Protection Area and its associated Wetland 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) 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 (BNG)

Under the Environment Act 2021 and the Town and Country Planning Act 1990 (as amended), all planning applications² for development (unless exempt^{3,4}), must deliver at least a 10% biodiversity net gain (BNG), shown via use of the Statutory Biodiversity Metric prior to commencement of any development.

Significant on-site gains, and all off-site gains will need to be secured for at least 30 years.

Having reviewed submitted information⁵, we consider a 10% biodiversity net gain is a statutory requirement of this proposed development.

There will be a net percentage change of -70.31% (-0.2677 units) for habitats onsite, with some of the existing vegetated garden retained. There is not considered to be room available within the site boundary to offset this loss.

² All planning applications for major development (unless exempt) submitted on or after 12th February 2024 in England, and all minor applications (unless exempt), submitted on or after the 2nd April 2024.

³ Biodiversity net gain: exempt developments - GOV.UK (www.gov.uk)

⁴ The Biodiversity Gain Requirements (Exemptions) Regulations 2024 (legislation.gov.uk)

⁵ References to the biodiversity value of any habitat or habitat enhancement within this section of the advice note refer to the value as calculated in accordance with the biodiversity metric.

We would like to point out that a small tree have been recorded as habitat baseline. However the Small Site Metric user guide states the following “*Count all medium, large and very large individual trees within private gardens.*” After the removal of this tree from the metric, there is a net percentage change of -66.55% (-0.2266 units) for habitats onsite.

Given their limited options, we advise that the applicant is likely to seek offsite gain or the purchase of biodiversity credits.

‘Off-site’ biodiversity gains are any BNG measures proposed outside of the red line boundary. It can be achieved through habitat creation on land owned by the applicant/developer, a third-party provider or through the purchase of BNG units from a habitat bank operator for a site which is registered on the Biodiversity Gain Site Register.

The statutory Biodiversity Gain Plan (BGP) must contain the biodiversity gain site register reference number for any offsite units if these are used. BNG sites must be registered here: [Register a biodiversity gain site - GOV.UK](https://www.makingspacefornaturekent.org.uk/bng/kent-biodiversity-net-gain-site-register/).

If off-site habitat creation is required, we direct the applicant towards the Kent Biodiversity Net Gain Site Register⁶ available on the Making Space for Nature in Kent and Medway website. Biodiversity Net Gain Guidance for Kent is also available on this website.

If any off-site habitat creation/enhancement is proposed outside of the LPA boundary/National Character Area of the impact site these will be subject to spatial risk penalties.

Where off-site gains are secured on land owned by the developer (but outside the redline boundary), or on third-party land (but not through a ‘habitat bank operator’⁷), the biodiversity net gain needs to be subject to a deed of conservation covenants or Section 106 (as appropriate). Section 106 agreement templates are available on the Planning Advisory Service website.

Where off-site gains are to be secured through a ‘habitat bank operator’ (which has its own legal agreement and HMMP), no additional conditions or section 106 obligations are required, above a condition requiring biodiversity net gain to be delivered as set out in the planning application.

The submission of provisional/draft legal documents outlining the agreement between the applicant and the provider of any off-site gains are advisable prior to determination to confirm that the proposed route to delivering net gain is feasible, but this information is not required until submission of the pre-commencement Biodiversity Gain Plan.

How the BNG is to be achieved will have to be agreed, secured and, where applicable, registered on the Biodiversity Gain Site Register, prior to the submission of the pre-commencement Biodiversity Gain Plan.

⁶ <https://www.makingspacefornaturekent.org.uk/bng/kent-biodiversity-net-gain-site-register/>

⁷ A registered BNG Habitat Bank is a site which has been registered on the Biodiversity gain site register and has a site register reference number ([Register a biodiversity gain site - GOV.UK](https://www.makingspacefornaturekent.org.uk/bng/kent-biodiversity-net-gain-site-register/)).

If it can be demonstrated that onsite biodiversity gains are not possible, the developer will need to demonstrate that they have approached 3 local or national suppliers, habitat banks or trading websites before considering statutory credits. The only exception⁸ to this is where a developer has a unit deficit smaller than 0.25 biodiversity units (area or linear), in which case they do not need to approach 3 suppliers before considering statutory biodiversity credits. Statutory credits are intentionally marked up in price to prevent undercutting the off-site market; these prices are reviewed every 6 months. Prices are available here: [Statutory biodiversity credit prices - GOV.UK](#).

We ran the calculations ourselves and the estimated cost of statutory biodiversity credits would be £9,660 (excluding VAT).

We recommend using this informative for the biodiversity gain :

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.

Ecological enhancements

Under section 40 of the NERC Act (2006) and paragraph 187 of the NPPF (2024), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 193 of the NPPF (2024), the implementation of net gains for biodiversity should be encouraged.

Enhancement features are not considered as part of a measurable net gain; however, in addition to the measurable net gains we expect enhancement features to also be incorporated into an enhancement plan within the red line boundary. These can include bat and bird bricks/durable boxes, log piles, hibernacula, and hedgehog homes as well as generous native planting.

Good tailored ecological enhancements have been recommended within the submitted Preliminary Ecological Appraisal.

We suggest the following condition wording :

Within three months of works commencing, a detailed plan showing how the development shall enhance and maintain biodiversity shall be submitted to, and approved in writing by, the local planning authority. This shall include details of native and wildlife-friendly planting, durable integrated bat boxes and integrated swift bricks, and holes in close-board fencing. The approved measures shall be implemented and retained thereafter.

⁸ See: [Statutory biodiversity credits - GOV.UK](#)

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

Marie Thibault
Biodiversity Officer

This response was submitted following consideration of the following documents:

- Preliminary Ecological Appraisal; KB Ecology; 15th June 2025
- Reptile Survey Report; KB Ecology; 18th August 2025
- Small Site Metric