



ECOLOGICAL ADVICE SERVICE

TO: Rebecca Harrison

FROM: Marie Thibault

DATE: 19 June 2025

SUBJECT: 20250247 - Land Adj To 77 New House Lane, Northfleet

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/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

As a result of reviewing the data we have available to us (including photos from the LPO and biological records) and the information submitted with the application submission, we advise that the proposed development has limited potential to result in ecological impacts. We have taken this view as the garden is regularly mown.

As such we are satisfied that there is no requirement for additional ecological information to be submitted with the planning application.

The photos indicate that the garden of the existing site is regularly mown grassland and we advise that this must continue to ensure that suitable habitat for protected/notable species does not establish within the site.

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.

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*

North Kent Site

The development includes proposals for a new dwelling within the zone of influence (ZOI) (6km) of the Thames Estuary and Marshes Special Protection Area, Medway Estuary and Marshes Special Protection Area and its associated Wetland of International Importance under the Ramsar Convention (Ramsar Site).

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

Gravesham Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full Appropriate Assessment is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is still a need for an appropriate assessment to be carried out as part of this application.

The Conservation of Habitats and Species Regulations 2017 Regulation 63 (3) also indicates that for Special Areas of Conservation (SACs) and Special Protection Areas (SPAs): "*The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.*" The local planning authority (the "Competent Authority") must therefore consult with and take into

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

consideration Natural England's advice in determining the application. The local planning authority also needs to be confident that proposals will not adversely affect these sites in line with the NPPF 2024².

The responsibility for carrying out a Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment lies with the Competent Authority, Gravesham Borough Council

Biodiversity Net Gain (BNG)

The submitted metric states that a net gain in excess of 10% can be achieved onsite, largely through new tree planting (three small trees) and the creation of vegetated garden.

However trees planted within vegetated garden cannot be counted towards BNG.

A private garden is a garden within the curtilage of a privately owned or tenanted dwelling house. The post-development private garden has no public access, and biodiversity net gains cannot be legally secured.

Page 56 of the Statutory Biodiversity Metric User Guide states:

You should not:

- ***count newly planted trees sited within private gardens***

When removing the new tree planting, the BNG metric indicated that the proposed development is not achieving 10% BNG but is currently achieving -38.35% and has a total deficit of 0.03 habitat units.

We advise that due to the layout of the proposed development it is likely that off site habitat creation will be required to achieve a Biodiversity Net Gain.

'Offsite' biodiversity gains are any BNG measures proposed outside of the red line boundary. 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.gov.uk/register-a-biodiversity-gain-site)

If any offsite 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 offsite 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'), the

² "When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and

"The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."

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. It is generally inappropriate to rely solely on conditions to secure off-site biodiversity net gain. The following needs to be secured as part of the off-site biodiversity net gain:

- The submission of a habitat management and monitoring plan (HMMP);
- Notice of HMMP implementation and completion of the habitat creation and enhancement works;
- Timescales for completion of habitat creation, and the submission of a completion report;
- Submission of a monitoring report;
- A habitat monitoring fee to be paid to the local planning authority on every habitat management monitoring event.

The HMMP shall be submitted when the general BNG condition is discharged and shall contain the following information ³:

- (a) a non-technical summary;
- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.

Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Where offsite 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.

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.

³ From Local Government Association

The condition cannot be varied or removed. An application must be made to discharge it as any other condition.

Ecological enhancements

Other biodiversity enhancement measures, which are unrelated to BNG, are detailed in the submitted *Ecological enhancement plan* within the *Ecological Enhancement & Management Plan*, Matthew Game, 17th February 2025.

We advise the following amendments :

- New planting : we advise the new planting to be of native species only
- One bat box to be erected on the existing building : we advise to put a bat brick integrated in the new building (long lasting)
- Hedgehog highways
- Bird box

We support the inclusion of these enhancements into the proposed development as they accord with paragraph 187(d) of the NPPF 2024, which states: *“Planning policies and decisions should contribute to and enhance the natural and local environment by ... minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs.”*

Suggested biodiversity enhancements should be clearly visible on the final elevations plans.

We advise the following condition wording :

Prior to the occupation of the development hereby approved, an updated site plan/elevation plans detailing the submitted Ecological enhancement included within the Ecological Enhancement & Management Plan, Matthew Game, 17th February 2025, will be incorporated in to the site, and will be approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

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:

- BNG Statutory Metric Calculation tool
- Biodiversity Net Gain Assessment, Matthew Game, 17th February 2025
- Ecological Enhancement & Management Plan, Matthew Game, 17th February 2025